

REDEVELOPMENT AGENCY

MEETING DATE: April 21, 2004

WALNUT GROVE PLANNED UNIT DEVELOPMENT (PUD) WORKSHOP

RECOMMENDED ACTION(S):

1) Review and discuss the four site design concepts for the Walnut Grove PUD; and 2) Provide direction/select a desired site design concept(s) for presentation to the Diana Avenue neighborhood.

EXECUTIVE SUMMARY: Since January 2004, the Agency's consultants, ROEL Automotive Advisory Group, have been working with staff,

the property owners, and the new owner of Courtesy Chevrolet to prepare site design concepts for the Walnut Grove PUD area (see attached concepts). The area is bounded by U.S. Highway 101 to the East, Dunne Avenue to the South, Walnut Grove Drive to the West, and the "Diana Avenue Neighborhood" to the North. Staff has directed ROEL to: 1) provide design concepts that allow for up to four auto dealerships, including additional acreage for Chevrolet to expand, and 2) show the extension of Walnut Grove Drive north to Diana Avenue. The following is a summary of the four concepts provided:

<u>Concept Option A</u>: creates one new site for a dealership, allows for the expansion of Chevrolet, and shortens the existing Laurel Road. This concept stays within the current Walnut Grove PUD boundaries.

<u>Concept Option A1:</u> expands on Option A by creating two Flex Auto sites outside of the existing PUD area: 1) immediately north of Chevrolet, and 2) west of Walnut Grove Drive. This concept extends Laurel Avenue west and creates a new retail site on Dunne Avenue.

<u>Concept Option B:</u> also goes beyond the existing PUD area to include the two Flex sites. This concept differs from Option A1 by shifting Laurel Drive to the north and creating two new retail sites south of Laurel Drive.

<u>Concept Option C:</u> takes a different approach (from A and B) which is distinguished by a loop road within the existing PUD area that continues south-west to Dunne Avenue. It provides for wider sites with substantial street frontage. A retail site is proposed to serve as the western end-cap for the auto district. This concept also includes the two Flex sites.

Concept Options A and A1 are preferred by the property owners because they are most respectful of the existing property lines, create the least number of parcels to sell or lease, and contain the fewest roads. Chevrolet also prefers these options, but finds Option B acceptable as well.

At this workshop, ROEL will present the four design concepts, discuss their merits, and share its arsenal of mitigation measures (re: sound, light, and visual impacts) under consideration for this project. Staff is requesting that the Agency provide direction/select a site design concept(s) for presentation to the Diana Avenue neighborhood. The current schedule anticipates taking the selected concept to the neighborhood for input at meetings in May and June.

FISCAL IMPACT: No additional fiscal impact at this time.

Agenda Item # 1	
Prepared By:	
BAHS Manager	
Approved By:	
BAHS Director	
Submitted By:	
Executive Director	



PERCHLORATE PUBLIC HEALTH GOAL PRESENTATION RECOMMENDED ACTION(S):

Receive Presentation by Dr. David Ting

PRESENTATION	TO
COUNCIL	

Prepared By:

Assistant to the City Manager

Submitted By:

City Manager

EXECUTIVE SUMMARY: The California Environmental Protection

Agency's Office of Environmental Health Hazard Assessment has recently established a Public Health Goal (PHG) for perchlorate in drinking water. PHGs published by OEHHA are for use by the California Department of Health Services in establishing primary drinking water standards. Whereas PHGs are to be based solely on scientific and public health considerations without regard to economic cost considerations, drinking water standards adopted by DHS are to consider economic factors and technical feasibility. Each standard adopted shall be set at a level that is as close as feasible to the corresponding PHG, placing emphasis on the protection of public health. PHGs established by OEHHA are not regulatory in nature and represent only nonmandatory goals.

The primary author of the report, Dr. David Ting, will be making a presentation to the Council outlining the study's findings and the methodology used in completing the report.

FISCAL IMPACT: No budget adjustment is requested at this time.



Agenda Item # 2	
Prepared By:	
Council Services &	
Records Manager/	
City Clerk	
Submitted By:	

City Manager

RESIGNATION OF A PARKS & RECREATION COMMISSIONER

RECOMMENDED ACTIONS:

1. <u>Accept</u> Rick Page's Notice of Resignation from the Parks & Recreation Commission

EXECUTIVE SUMMARY:

Attached, please find a copy of an e-mail from Rick Page, dated March 10, 2004, indicating that he is resigning from the Parks & Recreation Commission in conjunction with the re-appointment cycle. The Council conducted interviews to fill upcoming vacancies to the Parks & Recreation Commission on April 14, 2004. The Council appointed Tom Madalena to fill Mr. Page's unexpired term. Therefore, staff recommends that the Council accept Mr. Page's resignation from the Parks & Recreation Commission.

FISCAL IMPACT: The time necessary to prepare this report is accommodated in the Council Services and Records Manager's operating budget.



CALTRAIN ELECTRIFICATION PROGRAM EIR RECOMMENDED ACTION(S):

Authorize City Manager to Submit Attached Comments

Agenda Item # 3
Prepared By:
Assistant to the City Manager
Submitted By:
City Manager

EXECUTIVE SUMMARY: The Peninsula Corridor Joint Powers Board has prepared a Draft Environmental Impact Report for the proposed electrification of the Caltrain route from Gilroy to San Francisco. The purposes of the project are to improve Caltrain performance, reduce noise, improve regional air quality, and modernize Caltrain. Increased Caltrain ridership, reduced automobile congestion, quieter trains, and lower energy consumption are expected to result from the electrification.

Staff from the Community Development, Police, and Public Works Departments have reviewed the Draft EIR and believe that the proposed project will have overall positive benefits for the community. The one area of concern staff has identified is that the railroad crossings and railroad right-of-ways through the community all continue to present safety hazards that will increase in severity as Caltrain adds additional trains in the future. (Note: the Draft EIR does not address increases in train service – it only addresses the electrification project itself.) To address these concerns, staff recommends that the City continue to work cooperatively with other agencies to secure funding for separating grade crossings and fencing off the railroad right-of-way.

Staff recommends that the City Manager be authorized to submit the attached comment letter to the Pennisula Corridor Joint Powers Board supporting the electrification project and asking them to continue working cooperatively with the City on the aforementioned safety improvements.

FISCAL IMPACT: No budget adjustment is requested at this time.

April 22, 2004

Erik Olafsson Senior Planner San Mateo County Transit District 1250 San Carlos Avenue P.O. Box 3006 San Carlos, CA 94070-1306

Dear Mr. Olafsson:

The City of Morgan Hill has reviewed the Draft Environmental Impact Report for the Caltrain Electrification Program and is very supportive of the Board's efforts to modernize the Caltrain system. We believe that the reductions in noise pollution and air pollution will be especially appreciated in our South County location.

As Caltrain's popularity grows, we are all hopeful that additional funding will be identified and the frequency of train service to Morgan Hill will be increased. When this occurs, the safety hazards presented by the numerous at-grade crossings and unfenced railroad right-of-ways in Morgan Hill will also increase. The City asks that the Peninsula Corridor Joint Powers Board continues working cooperatively with the City on reducing the safety hazards associated with rail travel throughout the City of Morgan Hill.

Sincerely yours,

J. EDWARD TEWES
City Manager



CITY COUNCIL STAFF REPORT

MEETING DATE: April 21, 2004

SUPPLEMENTAL LAW ENFORCEMENT SERVICES FUND

RECOMMENDED ACTION(S):

Approve the FY2003/2004 Spending Plan for the Supplemental Law Enforcement Services Fund

EXECUTIVE SUMMARY:

The Police Department has received \$100,000 in S.L.E.S.F. (COPS) funding in FY 2003/2004 and these funds must be spent by June 2005. This appropriation must be used to fund front line law enforcement. Staff recommends continuing the funding of the CSO position in the form of salary, benefits and uniform

Agenda Item # 4

Prepared By:

Management Analyst

Approved By:

Interim Chief of Police

Submitted By:

City Manager

allowance. The remainder of the grant monies will be used to purchase equipment to support several programs. The funds for the CSO and equipment will be spent out of this year's general fund operating budget and offset with S.L.E.S.F. funds. Legislation requires City Council to approve the Spending Plan at a public meeting and forward the approval to the County Supplemental Law Enforcement Oversight Committee.

SPENDING PLAN FY 2003/2004

Ex_1	<u>penditures:</u>

1 CSO (Patrol 010-3210)	\$ 62,585
Mobile terminal computer upgrades	\$ 23,600
(14 modems to change from CDPD to GPR	S
and 2 new systems for new Sgt. Vehicles)	
3 tactical vests (SWAT 010-3245)	\$ 4,500
1 Crisis Negotiation phone system	\$ 7,500
(HNT 010-3245)	
8 patrol bicycles (Patrol 010-3210)	\$ 8,000
TOTAL	\$106,185
Revenues:	
June 2003 S.L.E.S.F. balance	\$ 77,818
October 2003 S.L.E.S.F. allocation	<u>\$100,000</u>
TOTAL	\$177,818

FISCAL IMPACT:

General Fund expenditures for the CSO position and equipment are offset by S.L.E.S.F. fund transfer to the General Fund in the amount of \$106,185. The unspent balance will continue to support the CSO position in FY 2004/2005.



Agen	da Item # 5
Prepa	ared By:
Asst.	to the City Mgr.
Suhn	nitted By:
Subii	

City Manager

PROPERTY USE AGREEMENT WITH AT&T WIRELESS

RECOMMENDED ACTION:

Authorize the City Manager to Execute a Property Use Agreement with AT&T Wireless for the Purpose of Operating a Telecommunications Facility at the El Toro Water Tank Site; Subject to Review and Approval by the City Attorney.

EXECUTIVE SUMMARY:

Since March 1988, the City has leased space at the El Toro water tank site to the Bay Area Cellular Telephone Company (now doing business as AT&T Wireless) for the purpose of sending and receiving cellular transmissions. Since February 2003, staff have worked with AT&T Wireless to negotiate a new property use agreement for the site. The current agreement expired on March 16, 2004.

Attached is a proposed Property Use Agreement that accomplishes several important objectives:

- The base use charge rendered to the City is now at market rate. The City's current rent of \$12,480 is considerably under market. The new use charge doubles the current rent, for an annual payment of \$24,960.
- Annual increases in the use charge are designed to keep the use charge at market rate. The charge will increase by 3% each year in the first term of the agreement. If that five-year term is extended, the use charge will be recalculated based on the growth in CPI over the term.
- <u>Significantly improved protections of the City's primary use of the site</u>, including the City's ability to access the site at any time, to shut off AT&T Wireless' transmissions if they interfere with the City's public safety transmissions at the site, and to require AT&T Wireless to relocate if the City needs to use the site for other public purposes.
- More specific documentation of the footprint of the facility, with the use charge tied to the size of the facility and the number of antennas used at the site.
- <u>City regulation of AT&T Wireless's access to the site</u>, in order to enhance the security of the City's water supply and public safety radio transmissions at the site.

The proposed Property Use Agreement has a five-year term, which may be extended twice for a total of fifteen years. Staff believes this duration is appropriate, given the protections extended to the City's use of the site and the escalation of the use charge over time.

It should be noted that AT&T Wireless recently requested a Conditional Use Permit to change the configuration of their antennas at the site. They wish to replace their existing antennas, located on the telecommunications pole now on the site, with ground-mounted antennas, which will be installed just inside the fence at the site. This Use Permit has been granted by the Planning Commission, subject to City Council approval of the attached Property Use Agreement. The Property Use Agreement will apply to the existing pole-mounted installation as well as to the proposed ground-mounted installation.

FISCAL IMPACT:

Approval and execution of the Property Use Agreement will result in \$12,480 in new revenue to the City for FY 2004-05.

NON-EXCLUSIVE INSTALLATION AND PROPERTY USE AGREEMENT BETWEEN THE CITY OF MORGAN HILL AND AT&T WIRELESS

This NON-EXCLUSIVE INSTALLATION AND PROPERTY USE AGREEMENT is made and entered into by and between the CITY OF MORGAN HILL, a municipal corporation ("CITY"), and BAY AREA CELLULAR TELEPHONE COMPANY, d/b/a AT&T WIRELESS, a California general partnership, ("COMPANY"), upon execution by CITY ("EFFECTIVE DATE").

RECITALS

WHEREAS, CITY is the owner of that certain real property located at El Toro Hill, Assessor's Parcel Number 773-9-15, Santa Clara County, Morgan Hill, California, more particularly described on the "Property Description," attached hereto as <u>Exhibit A</u> and incorporated herein by this reference ("PROPERTY"); and

WHEREAS, COMPANY has constructed and installed at no cost to CITY certain telecommunications facilities and appurtenant structures on PROPERTY owned by CITY to provide its services, which services are more particularly described in <u>Exhibit B</u>, attached hereto and incorporated herein, ("SERVICES") in and around CITY, and,

WHEREAS, in order to provide SERVICES, COMPANY desires to obtain from CITY and CITY desires to grant to COMPANY the right to use certain portions of the PROPERTY, which portions are further described in Exhibit C (the "LICENSED AREAS"), which is attached hereto and incorporated herein, for the purposes of installing, maintaining and operating a telecommunication facility and associated equipment to provide SERVICES, which antenna and associated equipment are more particularly described on the "Telecommunications Facility Description" attached hereto as Exhibit D and incorporated herein ("TELECOMMUNICATIONS FACILITY"); and

WHEREAS, CITY desires to have the SERVICES available in CITY in accordance with the terms and conditions contained in this AGREEMENT.

NOW, **THEREFORE**, for valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

SECTION 1. RIGHT TO USE CITY PROPERTY.

A. <u>Right to Use</u>. CITY hereby grants COMPANY the right to use the LICENSED AREA on a non-exclusive basis, for the purpose of installing, maintaining and operating the TELECOMMUNICATIONS FACILITY to provide SERVICES and for no other purpose.

B. Access.

- 1. COMPANY will be given reasonable access to the LICENSED AREA between the hours of 6:00 a.m. and 6:00 p.m. to repair or maintain the LICENSED AREA, including the telecommunications facility, antennas, and associated equipment, provided COMPANY provides CITY with at least one (1) hour verbal notice of the times that COMPANY will need access to that portion of the LICENSED AREA located on the PROPERTY. Such notice will be given to the Police Support Services Supervisor, or his/her designee. To obtain access to the site, a COMPANY employee or authorized vendor must obtain a key to the LICENSED AREA on the PROPERTY by appearing at the Police Department, located at 17605 Monterey Road, and providing proper identification to the Police Support Services Supervisor, or his/her designee.
- 2. If COMPANY desires access to the site for the purposes of construction, demolition, or any repair that requires more than two vehicles and more than eight (8) hours of on-site work, COMPANY will be given reasonable access provided COMPANY provides CITY with at least five (5) days prior written notice of the times that COMPANY will need access to that portion of the LICENSED AREA located on the PROPERTY and at least forty-eight (48) hours' actual prior oral notice to CITY of the times that COMPANY will need access to any other portion of the LICENSED AREA or PROPERTY. The CITY'S Senior Building Inspector/Facilities Maintenance Coordinator shall be CITY'S contact for these purposes, unless CITY otherwise indicates in writing. To obtain access to the site, a COMPANY employee or authorized vendor must obtain a key to the LICENSED AREA on the PROPERTY by appearing at the Police Department, located at 17605 Monterey Road, and providing proper identification to the Police Support Services Supervisor, or his/her designee.
- 3. If an emergency repair of the LICENSED AREA, including the telecommunications facility, antennas, and associated equipment is necessary, COMPANY may be allowed reasonable access to the LICENSED AREA between 6:00 p.m. and 6:00 a.m., provided that COMPANY obtains the Police Support Services Supervisor's prior permission to enter the LICENSED AREA.

The CITY shall provide COMPANY with the phone number of the Police Support Services Supervisor, which number shall permit contact with the Police Support Services Supervisor, or his/her designate, twenty-four hours per day.

4. COMPANY shall allow a representative of the CITY to observe any repair, maintenance or removal work performed at the LICENSED AREA or any other portion of the PROPERTY.

C. Relocation and Removal.

1. During the first two terms of this agreement, CITY may require relocation of the TELECOMMUNICATIONS FACILITY once per term, at the COMPANY'S

sole expense, to a location designated by CITY, provided that CITY shall provide COMPANY 90 days written notice in which to prepare plans and submit applications to acquire required building permits, land use approvals, FCC approvals, and any other relevant consent from agencies of pertinent jurisdiction. COMPANY shall commence construction of such required relocation within thirty days of receiving all required CITY, state and federal approvals. COMPANY shall have completed construction of the relocated facilities and the repair or restoration of its vacated leased premises within ninety days of commencement, as evidenced by final sign-off from all permitting agencies. COMPANY may, if requested a second time to relocate, elect to terminate this agreement by giving CITY twelve months' notice within 30 days of receiving formal notification of such second request to relocate.

Thereafter, throughout the remaining term of this AGREEMENT, CITY may at its own expense, require relocation of the antennas to a location designated by CITY, provided that CITY shall provide COMPANY notice as specified above

If relocation is from the defined PROPERTY to a new site, COMPANY may elect to terminate this agreement by giving CITY twelve months' notice within 30 days of receiving formal notification of the required relocation from the current property to the new. If COMPANY elects to move to the new property, a new use agreement shall be required at that time.

2. Failure by COMPANY to relocate the TELECOMMUNICATIONS FACILITY in accordance with Section 1.C.1 above shall constitute a material breach of this agreement and CITY may, at its sole discretion, take steps to terminate this agreement in accordance with the provisions of Section 7.A below. Effective no earlier than seven days after notice to COMPANY of termination, CITY may remove any of COMPANY'S equipment or improvements to the property.

D. <u>Title to the TELECOMMUNICATIONS FACILITY</u>.

Title to the TELECOMMUNICATIONS FACILITY, subject to the terms of this AGREEMENT, shall be and remain with COMPANY while the TELECOMMUNICATIONS FACILITY is installed and maintained at the PROPERTY, as long as COMPANY is in accordance and compliance with all of the terms of this AGREEMENT.

E. <u>Title to Improvements to the PROPERTY</u>.

Title to the improvements to the PROPERTY, or LICENSED AREA required for approval for the placement of the TELECOMMUNICATIONS FACILITY, including buildings or other structures placed thereon, shall revert to and remain with CITY upon termination of the use agreement. Title to all equipment installed for purposes of

operating and providing wireless communications services pursuant to this Agreement shall be and remain with COMPANY.

Notwithstanding any of the foregoing, improvements installed at the PROPERTY by COMPANY for provision of SERVICE shall be for the exclusive use of, and under the exclusive control of COMPANY, subject to the provisions in Section 1G and Section 7 throughout the term of this AGREEMENT.

F. No Warranties of Suitability of PROPERTY.

It is COMPANY'S election to install and maintain the TELECOMMUNICATIONS FACILITY at the PROPERTY and COMPANY does so solely at its own risk. CITY makes no representations or warranties regarding the suitability, condition or fitness of the PROPERTY for the installation, maintenance or use of the TELECOMMUNICATIONS FACILITY.

G. Right of CITY Access.

- 1. CITY reserves, and COMPANY agrees to, the right of CITY, its authorized officers, employees, agents or contractors, to enter into and access the LICENSED AREA and the PROPERTY at any time. Without limiting the foregoing, CITY and COMPANY agree that CITY may inspect the PROPERTY, LICENSED AREA and TELECOMMUNICATIONS FACILITY for COMPANY'S compliance with the terms of this AGREEMENT. In an emergency, the CITY may make repairs, alterations or additions to the PROPERTY or LICENSED AREA or maintain or use the PROPERTY or LICENSED AREA in any manner not prohibited by the terms of this AGREEMENT, all without a claim by COMPANY for any loss of occupation or use of, or any abatement of, the USE CHARGE for use of the LICENSED AREA. The CITY has the sole discretion to reasonably determine what constitutes an emergency situation, in accordance with Section 14.C. of this agreement.
- 2. Notwithstanding any of the foregoing, CITY may enter into COMPANY'S equipment building only upon a minimum of 24 hours' telephonic notice to COMPANY'S Network Operations Center at **(800) 832-6662**, subject to the emergency provisions of Section 14.C of this agreement.
- 3. Notwithstanding any of the foregoing, CITY shall make all prudent, good faith efforts to notify COMPANY when a declared emergency situation has ceased to exist. The CITY shall restore, within a reasonable time period, any aspect of the LICENSED AREA or of the TELECOMMUNICATIONS FACILITIES modified under authority of the emergency provisions of this agreement to the configuration existing immediately prior to CITY'S declaration that a state of emergency existed unless such configuration is impractical due to the emergency conditions.

SECTION 2. TERM.

A. Initial Term.

The term of this AGREEMENT shall commence on the EFFECTIVE DATE set forth above, and shall continue for five (5) years, expiring at 11:59 p.m. on the fifth anniversary of said EFFECTIVE DATE ("EXPIRATION DATE"), unless earlier terminated as pursuant to the terms of this AGREEMENT.

B. Option to Extend.

COMPANY shall have the option to extend the term of this AGREEMENT beyond the initial term described herein for two additional five (5) year period on the same terms, covenants and conditions that are contained in this AGREEMENT; CITY shall increase the USE CHARGE during the option period in the manner as provided in Section 3B below. **COMPANY shall exercise its option to extend this AGREEMENT, if at all; by providing CITY with a written notice that COMPANY intends to exercise its option no later than one hundred and eighty (180) days prior to the EXPIRATION DATE.**

SECTION 3. USE CHARGE.

A. Charge and Payment.

Commencing upon the EFFECTIVE DATE, COMPANY shall pay CITY the sum of \$24,960 per year calculated in accordance with the CITY'S Rate Schedule as shown in Exhibit E, which is subject to annual adjustment as provided below ("USE CHARGE").

The USE CHARGE shall be due and payable in full on the each anniversary of the EFFECTIVE DATE ("Anniversary Date") without offset, in advance. COMPANY shall make all payments to CITY at the following address:

City of Morgan Hill Finance Department 17555 Peak Avenue Morgan Hill, California 95037

Initial payment by COMPANY for adjustments made for addition of antennae, pursuant to Exhibit E shall be due and payable at the address set forth above on the date CITY approves placement of said additional antennae on the ANTENNA FACILITIES, and shall be prorated to reflect the remainder of the year of the Term ("Term Year"). CITY shall reimburse COMPANY for Adjustments reflecting removal of antenna(e) no later than sixty (60) days after COMPANY notifies CITY in writing of the completion of such removal. Adjustments to reflect removal of antenna(e) shall be

prorated to reflect the portion of the Term Year remaining after CITY receives said written notice of such removal.

B. Adjustment of USE CHARGE.

- 1. The USE CHARGE shall be increased annually by 3%. If COMPANY exercises its option to extend this agreement, as provided for in Section 2B, the base USE CHARGE shall be adjusted by the five-year percentage change which occurred in the Consumer Price Index (All Items, Base 1982-84 = 100) as published by the United States Department of Labor, Bureau of Labor Statistics for All Consumers for the San Francisco-Oakland-San Jose Metropolitan area (hereinafter "CPI"), between the year in which this AGREEMENT commenced, and the year in which the second term begins, to the extent the change in CPI in that time period is greater than the annual 3% increase. The base USE CHARGE shall not be adjusted at the beginning of the second term if the 5-year change in CPI is less than the annual 3% increase. The USE CHARGE will increase annually by 3% for each year of the second term, and if the COMPANY exercises its option to extend this agreement for a third term (and fourth, if we agree to go up to 4), the base USE CHARGE shall be adjusted by the five-year percentage change in CPI as described above. At no time shall the base USE CHARGE be reduced. The percentage change in the CPI shall be calculated by a fraction, the denominator of which is the CPI in effect as of the calendar month fourteen (14) full months prior to the adjustment date, and the numerator of which is the CPI in effect two (2) full months prior to the adjustment date. If the Department of Labor discontinues publishing the index mentioned above. CITY may use a comparable index to calculate the percentage change in the CPI.
 - 2. The USE CHARGE adjustment shall occur on each Anniversary Date.

<u>SECTION 4.</u> RIGHT TO USE APPLICABLE ONLY TO PROPERTY.

This AGREEMENT shall not be construed to permit construction, installation, maintenance or use of any TELECOMMUNICATIONS FACILITY on any property other than the TELECOMMUNICATIONS FACILITY on the LICENSED AREA.

<u>SECTION 5.</u> COMPLIANCE WITH APPLICABLE LAW AND APPROVALS.

A. Facility to be Constructed in Accordance with Law.

COMPANY shall construct, install, operate, maintain and remove the TELECOMMUNICATIONS FACILITY in accordance with all applicable federal, state and local governmental laws, rules and regulations now in existence or as hereafter enacted or amended. Without limiting the foregoing, COMPANY shall obtain, maintain and fully comply with any and all permits or approvals required from CITY.

B. Utility User's Tax.

COMPANY acknowledges and agrees that CITY does not currently require users of communications services such as the SERVICES to pay to CITY a utility users' tax. However, without limiting the other provisions of this SECTION, should the CITY ever institute such a tax, COMPANY agrees that COMPANY shall collect from the users of the SERVICES and remit to CITY said utility users' tax all in the manner described in, and in compliance with, the CITY'S requirements.

C. <u>Licensing and Authorization</u>.

COMPANY represents that it is licensed by the Federal Communications Commission to operate the ANTENNA FACILITIES and provide the SERVICES, and COMPANY agrees provides documentation evidencing such licensing and authorization within ten (10) days of a receiving a request by CITY for such documentation.

SECTION 6. MAINTENANCE AND REPAIR.

- A. COMPANY shall maintain and repair the TELECOMMUNICATIONS FACILITY, at no cost to CITY (except as specifically provided otherwise in this AGREEMENT) and to CITY'S reasonable satisfaction, including repair of any and all damage to the PROPERTY or the LICENSED AREA that may result from any relocation or removal of the TELECOMMUNICATIONS FACILITY or COMPANY'S exercise of any of the rights and privileges hereby granted, including, without limitation, damage to any walls, floors, ceilings, doors or electrical system in the PROPERTY or the LICENSED AREA. Upon removal of the TELECOMMUNICATIONS FACILITY and termination of this AGREEMENT, COMPANY shall restore the affected areas of the PROPERTY to at least as good condition and repair as before COMPANY'S use thereof, except for ordinary wear and tear.
- B. COMPANY agrees to and shall: (1) shall keep the TELECOMMUNICATIONS FACILITY and the LICENSED AREA in neat, clean and orderly condition at all times; (2) not cause rubbish, garbage or debris to accumulate or remain on or around the TELECOMMUNICATIONS FACILITY, LICENSED AREA or PROPERTY at any time; (3) not commit, suffer or allow any acts to be done at or around the TELECOMMUNICATIONS FACILITY, LICENSED AREA or PROPERTY in violation of any law, regulation, permit or rule; and, (4) not use or allow the use of the TELECOMMUNICATIONS FACILITY, LICENSED AREA or PROPERTY for any illegal or immoral purpose.

- C. COMPANY shall mark cabling that is exposed, and not in conduit, every 18 inches with identifying ownership markings and identify the antenna with similar ownership markings.
- D. Prior to installation of new cables COMPANY shall submit plans and specifications to the CITY for approval any proposed cable runs. In addition, the COMPANY must provide a set of as-builts after installation that shows exactly where the cable run is, as well as other details. Cable runs shall be installed in conduit that is permitted and approved by CITY.

Should the COMPANY, in the CITY'S sole judgment, fail to maintain the TELECOMMUNICATIONS FACILITY and PROPERTY to the above standards, CITY may enter upon the PROPERTY and effectuate such acts as it deems necessary to comply with such standards. CITY will provide COMPANY an official notice, signed by the City Manager, ten (10) days prior to the CITY conducting property maintenance activities. Any reasonable costs incurred by the CITY will be payable by the COMPANY within ten (10) days of receipt of an itemized bill therefore.

SECTION 7. TERMINATION.

A. Termination with Cause.

- Except as otherwise provided in this Agreement, CITY shall have the right to terminate this AGREEMENT immediately (i) if COMPANY fails to cure a material breach (the materiality of which shall be determined in CITY'S sole discretion) of any term or condition hereof, within thirty (30) days after CITY has notified COMPANY of such breach; or (ii) if said cure cannot reasonably be completed within thirty (30) days and COMPANY has not commenced curative action within said thirty (30) days and thereafter diligently (in CITY'S sole opinion) prosecuted such cure to completion; or (iii) if COMPANY'S operation is deemed by CITY to endanger or pose a threat to the public health, safety or welfare, including, without limitation, and as an example, if operation of the TELECOMMUNICATIONS FACILITY adversely interferes with, or otherwise adversely affects CITY communications or operations and such threat or danger cannot reasonably be cured in accordance with the provision of Section 7.A.1.i and Section 7.A.1.ii above; (iv) if CITY is mandated by law, a court order or decision, or the federal, state or local government to take certain actions that will cause or require the removal of the TELECOMMUNICATIONS FACILITY from the LICENSED AREA; or (v) if the removal of the TELECOMMUNICATIONS FACILITY from the LICENSED AREA is needed to accommodate the construction, installation, operation, repair or maintenance of any improvement desired by CITY, and CITY and COMPANY agree that no acceptable alternate location exists on the PROPERTY.
- 2. CITY acknowledges and agrees that so long as COMPANY is operating in accordance with Federal Communications Commission health and safety standards for human exposure to electromagnetic frequencies as may be amended during the term of

this Agreement, COMPANY'S radio signals shall not be deemed to be a threat or danger under iii above.

B. <u>Termination without Cause</u>.

Either party may terminate this Agreement without cause upon one hundred eighty (180) days' prior written notice to the other party.

C. Removal of Facility Upon Termination.

Prior to the expiration of this AGREEMENT, COMPANY shall remove the TELECOMMUNICATIONS FACILITY and, at the written request of the City, COMPANY shall repair and restore the affected areas of the LICENSED AREA and the PROPERTY. If this AGREEMENT is terminated by either party earlier than the expiration of the term, COMPANY shall remove the TELECOMMUNICATIONS FACILITY no later than sixty (60) days after notice of termination, provided that termination due to required relocation of the TELECOMMUNICATIONS FACILITY shall be governed by Section 1.C. COMPANY shall also repair and restore the affected areas of the LICENSED AREA and the PROPERTY, at the CITY'S written request, if this AGREEMENT is terminated by either party earlier than the expiration of the term,

Removal of the TELECOMMUNICATIONS FACILITY shall be at COMPANY'S sole cost and expense, except as specifically provided otherwise in this AGREEMENT. Should the COMPANY, or its successor in interest or assign, in the CITY'S sole judgment, fail to remove, repair or restore, CITY may enter upon the PROPERTY and effectuate such acts as it deems necessary to comply with such standards. Any costs incurred by the CITY will be payable by the COMPANY within ten (10) business days of receipt of an itemized bill therefore.

D. Prorated Use Charge Reimbursement.

In the event of the early termination of this Agreement, CITY will reimburse COMPANY the unused portion of the USE CHARGE after proration and proper computation.

SECTION 8. NO LIABILITY.

A. Liability.

CITY, its agents, officers, employees or contractors, shall not be liable for any damage from any cause whatsoever to the TELECOMMUNICATIONS FACILITY, specifically including, without limitation, damage, if any, resulting from CITY'S

maintenance operations adjacent to the TELECOMMUNICATIONS FACILITY or from vandalism or unauthorized use of the TELECOMMUNICATIONS FACILITY, except as such damage is solely caused by the sole negligence or willful misconduct of CITY, its agents, officers, employees or contractors.

B. <u>Security</u>.

COMPANY shall take reasonable precautions against damage to or unauthorized use of the TELECOMMUNICATIONS FACILITY. CITY shall not be liable for any vandalism or other damage that may occur to the TELECOMMUNICATIONS FACILITY or in the LICENSED AREA or any unauthorized use of the TELECOMMUNICATIONS FACILITY except as provided in Section 8.A., above.

SECTION 9. PLANS AND SPECIFICATIONS; PERMITS.

- A. CITY shall have the right of prior review and approval of all Plans and Specifications and shall have the right to inspect the TELECOMMUNICATIONS FACILITY at any time during and after installation to ensure compliance with such Plans and Specifications. COMPANY shall not commence installation or alteration of the TELECOMMUNICATIONS FACILITY, or any portion thereof, until CITY has approved the Plans and Specifications and COMPANY has obtained all applicable permits. Approval of Plans, Specifications and Permits shall not release COMPANY from the responsibility for, or the correction of, any errors, omissions or other mistakes that may be contained in the Plans, Specifications and/or Permits. COMPANY shall be responsible for notifying CITY and all other relevant parties immediately upon discovery of such omissions and/or errors.
- B. COMPANY agrees to perform any work in furtherance of the Plans, Specifications and Permits at COMPANY'S sole expense and in accordance with and in a manner CITY is satisfied conforms to Plans, Specifications and Permits as may be approved by CITY in furtherance of this AGREEMENT. CITY will provide COMPANY an official notice, signed by the City Manager, if CITY is not satisfied that work completed by the COMPANY conforms to Plans, Specifications and Permits approved by the CITY.
- C. COMPANY will submit required Plans and Specifications to the CITY at the address set forth for Notices in Section 15 herein, which CITY shall use for description and acceptance of the TELECOMMUNICATIONS FACILITY. COMPANY shall supply the CITY any additional information it may request before approving the Plans and Specifications in a format that is acceptable to the CITY.

- D. COMPANY shall apply for and obtain all applicable permits as are required by CITY to perform the work described in this AGREEMENT and shall comply with all of the terms and conditions set forth in such permits, including, without limitation, allowing CITY personnel to inspect the installation of the TELECOMMUNICATIONS FACILITY on CITY property. COMPANY shall arrange for, obtain and bear costs of all: permits (including without limitation any fees as required by any federal, state or local law, statue, ordinance, rule or regulation); plan check and inspection fees; licenses; environmental impact reports; site preparation; surface treatment and relocation of any facilities on the LICENSED AREA, as necessary or required for health or safety in the construction or alteration of the LICENSED AREA. As a condition of this AGREEMENT, COMPANY agrees to perform the covenants and conditions contained in any permit issued or to be issued to COMPANY by CITY'S Chief Engineer or his or her designees.
- E. COMPANY shall commence physical installation of the not TELECOMMUNICATIONS FACILITY before approval of Plans and Specifications pursuant to Subsection 9.A, and obtaining approval of all applicable permits pursuant to Subsection 9.D. Approval of Plans and Specifications by CITY Departments shall not release COMPANY from the responsibility for, or the correction of, any errors, omissions or other mistakes that may be contained in Plans and Specifications. COMPANY agrees to perform any work at COMPANY'S sole cost and at COMPANY'S sole expense and in accordance with and in a manner CITY is satisfied conforms to Plans and Specifications as may be approved by CITY in furtherance of this AGREEMENT.

SECTION 10. INDEMNIFICATION.

COMPANY shall protect, defend, indemnify, and hold harmless CITY, its officers, employees and agents against any claim, loss or liability arising from or related to any damage, injury or loss caused by, or resulting from, the installation, maintenance, operation or use of the TELECOMMUNICATIONS FACILITY, the provision of SERVICES, or resulting in any way from COMPANY'S occupation or use of the PROPERTY or the LICENSED AREA, including, without limitation, that which is due, in whole or in part, to the willful misconduct or negligent acts (active or passive) or omissions by COMPANY, its officers, employees, consultants or agents. COMPANY'S obligation to indemnify and hold harmless excludes only such claim, loss or liability that is due to the sole negligence or willful misconduct of CITY and/or its employees. All of COMPANY'S obligations under this SECTION are intended to apply to the fullest extent permitted by law and shall survive the expiration or sooner termination of this AGREEMENT.

In an action or claim against CITY in which COMPANY is defending CITY, CITY shall have the right to approve legal counsel providing CITY'S defense.

SECTION 11. TAXES.

- A. COMPANY shall pay before delinquency any and all taxes, assessments, licenses, fees and other public charges which may be levied, assessed or imposed upon any of COMPANY'S interests herein, upon COMPANY'S businesses, upon COMPANY for the privilege of conducting business, or upon any property of COMPANY at the PROPERTY. COMPANY is advised that this AGREEMENT may, but is not intended to, create a possessory interest in the LICENSED AREA, for which COMPANY may be subject to payment of possessory interest taxes therefore, for which CITY shall not be liable. Payment of any possessory interest tax shall not reduce in any way any charges or other fees required to be paid by COMPANY hereunder.
- B. COMPANY shall not permit or suffer any liens to be imposed upon the PROPERTY or any portion thereof, without promptly discharging the same, provided, however, that COMPANY may, if it so desires, contest the legality of same following prior written notice to CITY. In the event of a contest of a lien, COMPANY shall provide a bond in an amount and in a form acceptable to CITY immediately following request therefore by CITY.

SECTION 12. INSURANCE.

- A. COMPANY, at COMPANY'S own expense throughout the Term of this AGREEMENT, as extended, shall comply with the insurance requirements attached hereto as Exhibit F and incorporated by reference herein. The procuring of the policy or policies of insurance required by Exhibit F shall neither be construed to limit COMPANY'S liability hereunder nor to fulfill the indemnification provisions and requirements of this AGREEMENT. Notwithstanding the policy or policies of insurance, COMPANY shall be obligated for the full and total amount of any damage, injury or loss caused by its negligence or willful misconduct arising out of this AGREEMENT or COMPANY'S use of the PROPERTY or the LICENSED AREA.
- B. COMPANY shall deposit with CITY, on or before the EFFECTIVE DATE, certificates of insurance and the required endorsements in forms reasonably satisfactory to CITY, indicating compliance with the insurance provisions of this AGREEMENT. COMPANY shall keep the insurance in effect, and the certificates evidencing the insurance on deposit with CITY, during the Term of the AGREEMENT and as the same may be extended.

SECTION 13. FREQUENCY INTERFERENCE.

- Α. COMPANY will not cause, permit or allow the installation, operation, maintenance or use of the ANTENNA FACILITIES or any other equipment installed pursuant to this AGREEMENT to interfere with: (1) any CITY use of the PROPERTY; (2) CITY equipment used at the PROPERTY; (3) CITY communications; and/or (4) or any pre-existing third party uses of the PROPERTY or any other CITY property, including uses of communications equipment, which uses were authorized or planned by CITY prior to the execution of this Agreement. COMPANY shall immediately provide, in writing, to the CITY at the address set forth for notices in Section 15, herein, the frequencies and FCC licenses utilized in the operation of the ANTENNA FACILITIES. COMPANY shall also provide the CITY, at the same address, with written notice of any intended changes in those frequencies, a description of those frequencies and the dates that those frequency changes are anticipated to occur, at least thirty (30) days prior to the date that those frequency changes are anticipated to occur. COMPANY shall not begin any work on the PROPERTY pursuant to this AGREEMENT until these frequencies have been approved in writing by CITY'S City Manager or any other person designated by the City Manager to make such approval for the CITY. Such approval shall not be unreasonably withheld or delayed.
- B. COMPANY shall ensure that its use of the TELECOMMUNICATIONS FACILITY does not interfere with any communication transmissions in the vicinity of the PROPERTY, including, if applicable and without limitation, the CITY'S public safety transmissions, police and fire communications, CITY'S internal or external communications, or communications by CITY'S tenants or contractors. COMPANY shall operate the TELECOMMUNICATIONS FACILITY in such a manner that all communications sent or received by the TELECOMMUNICATIONS FACILITY shall be separated from all CITY communications frequencies, including without limitation, CITY communications listed in the preceding sentence, by at least 1 megahertz.

If COMPANY'S construction, installation, maintenance, operations, use or removal of the TELECOMMUNICATIONS FACILITY is reasonably determined to be causing such interference in violation of this provision, COMPANY shall immediately eliminate such violation or interference. If COMPANY fails to immediately eliminate such violation or interference, CITY may, in addition to and without compromising any other remedy available to CIY, immediately cut off power to the facility in the manner set forth in Section 14 below. CITY shall immediately provide notice to COMPANY of any interference or the exercise of CITY'S shut-off rights pursuant to this SECTION.

Reasonable determination of cause above shall be established through the following steps:

1) CITY shall immediately notify COMPANY of its perception of interference by telephoning COMPANY'S Wireless Network Control Center (WNCC), describing the nature and severity of the technical problems being experienced, by calling (800) 832-6662.

- 2) COMPANY shall initiate a Trouble Ticket and immediately dispatch a technician to the PROPERTY.
- 3) COMPANY'S technician shall verify and, if necessary, adjust the power output levels of all its broadcast devices. If no abnormality is found, then;
- 4) COMPANY'S technician shall inspect the TELECOMMUNICATIONS FACILITY for signs of physical damage to equipment or misalignment of antennas. Steps shall be taken to immediately repair any such condition and, if immediate remedy is not possible, technician shall reduce or cease the output from such damaged equipment based on results report by the CITY agency monitoring the perceived interference. If no abnormality is found, then;
- 5) COMPANY'S technician shall test for ambient frequencies and signal strengths at the PROPERTY. If finding no abnormality, then CITY may still require COMPANY to reduce the output power of the TELECOMMUNICATIONS FACILITY.
- 6) COMPANY agrees to complete steps 2 through 5 within two hours of receiving a call from the CITY as described in step 1. If the COMPANY is required to reduce power pursuant to step 5, COMPANY further agrees to do so within 8 hours of initial notification of the problem as described in step 1 if such interference is of a disruptive severity, in the CITY'S sole opinion. Otherwise, COMPANY shall reduce power during the next Maintenance Window period, currently defined as the hours of 10 pm to 6 am every day.
- 7) If such reduction does not eliminate the perceived interference, then the cause of the interference shall be deemed to exist outside the operations of the COMPANY. If such reduction does eliminate the perceived interference, then the source of the interference shall be deemed to be something outside the control of COMPANY.
- C. COMPANY shall use its best efforts to operate its communications equipment in a manner that is consistent with all applicable frequencies assigned to it by the Federal Communications Commission ("FCC"), if any, and in compliance with all applicable FCC rules and regulations.

SECTION 14. EMERGENCY.

A. COMPANY understands that emergency situations may develop from time to time that require power to the TELECOMMUNICATIONS FACILITY to be shut off. Notwithstanding Section 13, COMPANY agrees that in the event that such a situation occurs, and there are frequency interferences of any nature between CITY'S communication equipment and that of COMPANY, CITY shall have the right to immediately shut off any power to the TELECOMMUNICATIONS FACILITY, and any

equipment of COMPANY'S located on the PROPERTY, until such time that COMPANY demonstrates to CITY that it has cured the interference, or for the duration of the emergency, whichever is sooner. COMPANY agrees not to hold CITY responsible or liable for and shall protect, defend, indemnify and hold CITY harmless pursuant to SECTION 10 for any damage, loss, claim or liability of any nature suffered as a result of the loss of the use of the TELECOMMUNICATIONS FACILITY or other communication facilities at PROPERTY in such an emergency situation. If reasonably possible, CITY will provide notice of the need to shut off power, depending on the nature of the emergency.

- B. Unless otherwise specifically provided in a notice of termination of this AGREEMENT, CITY'S exercise of the right to shut off any power to the TELECOMMUNICATIONS FACILITY pursuant to this SECTION is not intended to constitute a termination of this AGREEMENT by either party. COMPANY and CITY shall meet after the CITY determines that an emergency situation has ended to establish the time and manner in which power shall be restored to the TELECOMMUNICATIONS FACILITY.
- C. CITY shall have the sole discretion to reasonably determine what constitutes an "emergency situation" pursuant to this Section.

SECTION 15. NOTICES.

Except as otherwise specifically set forth and allowed under this AGREEMENT, all notices herein required to be given or which may be given by either party to the other shall be deemed to have been fully given when served personally on CITY or COMPANY, or when made in writing and deposited in the United States Mail, certified mail, return receipt requested, postage prepaid and addressed as follows:

To CITY: City Manager

City of Morgan Hill 17555 Peak Avenue Morgan Hill, CA 95037

With a copy to: Office of the City Attorney

City of Morgan Hill 17555 Peak Avenue Morgan Hill, CA 95037

To COMPANY: AT&T Wireless

Attn: Property Management Dept. 3140 Gold Campo Dr., Suite 30 Rancho Cordova, CA 95670

With a copy to: AT&T Wireless

Attn: Legal Dept. LBO - RTC 1

16331 NE 72nd Way

RTC 1

Redmond, WA 98052

Either party may change its address for notice by notifying the other party in the manner provided in this Paragraph.

<u>SECTION 16.</u> RIGHT TO USE SUBORDINATE.

The right to use the LICENSED AREA herein granted by CITY to COMPANY, and all rights and privileges hereunder, are and shall be subordinate to the rights of CITY and to other existing tenants to use and occupy, and to any occupancy by them of, the PROPERTY and the LICENSED AREA. In the event of conflict between COMPANY'S right to use the LICENSED AREA and CITY'S desired use thereof after the EFFECTIVE DATE, CITY may require COMPANY to redesign, adjust, relocate or remove the TELECOMMUNICATIONS FACILITY for cause. COMPANY'S right to install, maintain and operate the TELECOMMUNICATIONS FACILITY, or to remove the TELECOMMUNICATIONS FACILITY, shall be subject at all times to such rights as CITY may have to require the removal or relocation, for cause, of the TELECOMMUNICATIONS FACILITY at the sole cost and expense of COMPANY, under the terms stated in SECTION 1 of this AGREEMENT.

SECTION 17. ASSIGNMENT.

In no event shall the rights, duties and obligations conferred upon COMPANY pursuant to this AGREEMENT be at any time sold, transferred or assigned, except through a transfer of an interest of COMPANY in the property, or any portion thereof. Notwithstanding the foregoing, COMPANY shall have the right to assign its interests in this AGREEMENT to a wholly owned subsidiary of the COMPANY provided that all of the following conditions are met: (1) such assignment is made in conjunction with the transfer of all of COMPANY'S title to or interest in the PROPERTY to such wholly owned subsidiary, (2) such wholly owned subsidiary agrees to be bound by the terms of this AGREEMENT to the same extent as COMPANY, and (3) COMPANY shall not be relieved or released of any liability or obligations under this AGREEMENT and shall be jointly and severally liable with its wholly owned subsidiary for the performance of COMPANY'S obligations under this AGREEMENT.

SECTION 18. GOVERNING LAW.

This AGREEMENT shall be construed by, and in accordance with, the laws of the State of California.

SECTION 19. NO INTEREST IN PROPERTY.

Nothing herein shall be deemed to create a lease, or easement of any property, or to grant any interest in the PROPERTY, other than a real property license to use the LICENSED AREA, revocable as set forth herein.

SECTION 20. INSPECTION.

- 1. The LICENSED AREA, including keys thereto, shall be at all times under control of the CITY, whose officials, employees and agents shall have the right to enter the LICENSED AREA, and all portions thereof, for purposes of inspection (and other purposes contemplated by this AGREEMENT) at all times during the period covered by this AGREEMENT. COMPANY will provide CITY with copies keys to COMPANY'S equipment building in the LICENSED AREA. CITY will notify AT&T of CITY'S intent to inspect the LICENSED AREA one hour prior to such inspection occurring.
- 2. Notwithstanding any of the foregoing, CITY may enter into COMPANY'S equipment building only upon a minimum of 24 hours' telephonic notice to COMPANY'S Network Operations Center at **(800) 832-6662**.
- 3. CITY agrees that when entering COMPANY'S equipment building unescorted, its personnel shall be prohibited from taking any action which would in any way affect any function of COMPANY'S operations. Effecting a reduction of power under Section 6.B below may only be done by a duly authorized representative of COMPANY. When entering COMPANY'S building unescorted, CITY assumes full liability for harm, damages, or other claims arising from the CITY'S sole negligence in connection with such entry, and shall indemnify and hold COMPANY harmless against all such liability. Service or operations disruptions incurred by COMPANY as a result of the CITY'S sole negligence in connection with such entry shall be compensated to COMPANY in the form of rent abatement for the duration of such disruption and reimbursement to COMPANY for service revenues lost as a result of said disruption.

SECTION 21. UTILITIES.

COMPANY shall be solely responsible for ensuring that the LICENSED AREA has adequate electrical power and any other utility service necessary or useful to operation of the TELECOMMUNICATIONS FACILITY. CITY is not obligated to make electricity or other utilities available if there is an interruption in such service to the LICENSED AREA or to the PROPERTY. COMPANY shall not do anything, nor shall it

permit anything to be done, which may interfere with the effectiveness or accessibility of the utility, heating, ventilation, diesel exhaust or air conditioning systems or portions thereof of the PROPERTY.

SECTION 22. NOT AGENT OF CITY.

Neither anything in this AGREEMENT nor any acts of COMPANY shall authorize COMPANY or any of its employees, agents or contractors to act as agent, contractor, joint venturer or employee of CITY for any purpose.

SECTION 23. RESERVATION OF RIGHTS.

COMPANY understands, acknowledges and agrees that any and all authorizations granted to COMPANY under this AGREEMENT are nonexclusive and shall remain subject to all prior and continuing regulatory and proprietary rights and powers of CITY to regulate, govern and use CITY property, as well as any existing encumbrances, deeds, covenants, restrictions, easements, dedications and other claims of title that may affect CITY property. CITY and COMPANY agree that nothing contained in, or contemplated by, this AGREEMENT is intended to confer, convey, create or grant to COMPANY any perpetual interest in any CITY property or in any of CITY'S public rights of way.

SECTION 24. CONFLICT OF INTEREST.

COMPANY shall avoid all conflict of interest or the appearance of conflict of interest in the performance of this AGREEMENT.

SECTION 25. MISCELLANEOUS.

- A. Whenever the singular number is used in this AGREEMENT and when required by the context, the same shall include the plural and the masculine gender shall include the feminine and neuter genders.
- B. If there be more than one entity designated in, or signatory to, this AGREEMENT, the obligations hereunder imposed upon COMPANY shall be joint and several; and the term COMPANY as used herein shall refer to each and every of said signatory parties, severally as well as jointly.
- C. This instrument contains all of the agreements and conditions entered into and made by and between the parties and may not be modified orally, or in any manner, other than by an agreement in writing signed by all the parties hereto or their respective successors-in-interest.

- D. Time is, and shall be, of the essence for each term and provision of this AGREEMENT.
- E. Each and every term, condition, covenant and provision of this AGREEMENT is and shall be deemed to be a material part of the consideration for CITY'S entry into this AGREEMENT and any breach hereof by COMPANY shall be deemed to be a material breach. Each term and provision of this AGREEMENT performable by COMPANY shall be construed to be both a covenant and a condition.
- F. The headings of the several paragraphs and sections of this AGREEMENT are inserted only as a matter of convenience and for reference and in no way define, limit or describe the scope or intent of any provisions of this AGREEMENT and shall not be construed to affect in any manner the terms and provisions hereof or the interpretation or construction thereof.
- G. In the event any covenant, condition or provision herein contained is held to be invalid by a court of competent jurisdiction, the invalidity of any such covenant, condition or provision shall in no way affect any other covenant, condition or provision herein contained, provided the invalidity of any such covenant, condition or provision does not materially prejudice either CITY or COMPANY in its respective rights and obligations contained in the valid covenants, conditions and provisions of this AGREEMENT.
- H. All exhibits and addenda referred to herein, and any exhibits or schedules which may from time to time be referred to in any duly executed amendment hereto, are by such reference incorporated herein and shall be deemed a part of this AGREEMENT as if set forth fully herein.
- I. This Agreement shall be interpreted and construed only by the contents hereof, and there shall be no presumption or standard of construction in favor of or against either party.
- J. Days, unless otherwise specified, shall mean calendar days.
- K. Whenever in this AGREEMENT the approval or consent of a party is required, such approval or consent must be in advance, shall be in writing, and shall be executed by a person having the express authority to grant such approval or consent unless the terms of this AGREEMENT specifically allow an oral approval or consent of a party.

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L. This Agreement may be executed simultaneously in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

IN WITNESS WHEREOF, the parties have executed this AGREEMENT as of the EFFECTIVE DATE.

ATTEST:	THE CITY OF MORGAN HILL
City Clerk Date:	City Manager Date:
APPROVED:	APPROVED AS TO FORM
Risk Manager Date:	City Attorney Date:
"COMPANY" Bay Area Cellular Telephone Company, a California general partnership, d/b/a AT&T W	'ireless
By: CMT Partners, a Delaware general partner its General Partner	rship,
By: AT&T Wireless Services of California, LLC a Delaware limited liability company, its General Partner	,
By: AT&T Wireless Services, Inc., a Delaware corporation, its Member	
By: Signature	Printed Name
Its: Title	Date

EXHIBIT A

PROPERTY DESCRIPTION

Site Description

City of Morgan Hill water tank site on El Toro mountain, approximately 1,100 feet westerly of the end of West Dunne Avenue. Location:

Site Area: 0.15 acres

El Toro Water Tank Site Map attached

EXHIBIT B

SERVICES PROVIDED BY AT&T

COMPANY shall provide two-way radio signal transmission and reception in its licensed frequencies disclosed to CITY per Section 13.A. above, and in the manner permitted under its licensure by the Federal Communications Commission and the California Public Utilities Commission.

EXHIBIT C

DESCRIPTION OF LICENSED AREA

Telecommunication Facility

Equipment building on El Toro Water Tank site **located as shown on the attached site plan**, measuring approximately 288 square feet.

Antennas and Associated Equipment

AT&T Wireless is granted use of certain ground areas for installation, maintenance and operation of antennas and related equipment as shown and described in detail in Exhibit D. Access to the telecommunications facility, antennas and associated equipment is governed by section 1.B. of this AGREEMENT.

EXHIBIT D

TELECOMMUNICATIONS FACILITY

As of April 1, 2004, AT&T Wireless has 6 antennas installed on a telecommunications pole owned by the City of Morgan Hill, described more specifically and as shown on the map attached hereto as Exhibit D.1.

As of April 1, 2004 AT&T Wireless has applied with the City of Morgan Hill for a conditional use permit allowing construction of 8 pole-mounted antennas on the PROPERTY, as shown on the map attached as Exhibit D.2.

This AGREEMENT applies in full to any and all existing TELECOMMUNICTIONS FACILITY, and any future TELECOMMUNICATION FACILITY applied for by COMPANY, approved by the CITY, and/or constructed on the site by COMPANY during the term of this AGREEMENT, any extensions or renewal thereto, or any hold-over period.

EXHIBIT E

RATE SCHEDULE

Charges For Attachment Of Telecommunication Antennas/Equipment To City Of Morgan Hill-Owned Properties

The rates noted below are for Fiscal Year 2003-04 ending June 30, 2004; rates increase annually by 3%. The USE CHARGE shall be further adjusted as described in Section 3.B if COMPANY exercises its options to extend this agreement, as provided for in Section 2.B.

1 to 4 antennae and/or foundation/surface area containing	\$21,600 per annum
equipment or cabinet is less than 150 square feet	
5 to 8 antennae and/or foundation/surface area containing	\$24,960 per annum
equipment or cabinet is 150 to 300 square feet	
9 antennae and/or foundation/surface area containing	\$30,000 per annum
equipment or cabinet is 301 to 650 square feet	
Requests for facilities containing more than 9 antennae and/or fo	oundation/surface area
containing equipment in excess of 650 square feet shall be reviewed and priced on a	

containing equipment in excess of 650 square feet shall be reviewed and priced on a case-by-case basis

Lessees which choose to pay for 5 years upon commencement of the contract shall be charged at a 20% discount based upon the base rate x 5 without factor for inflation.

EXHIBIT F

INSURANCE

COMPANY shall procure and maintain for the duration of the contract, insurance against claims for injuries to persons or damages to PROPERTY, which may arise from, or in connection with, the performance of the work hereunder by COMPANY, its agents, representatives, employees or subcontractors.

A. <u>Minimum Scope of Insurance</u>.

Coverage shall be at least as broad as:

Insurance Services Office form number GL 0002 (Ed. 1/73) covering commercial General Liability and Insurance Services Office form number GL 0404 covering Broad Form Commercial General Liability; or insurance Services Office Commercial General Liability coverage ("occurrence" form CG 0001), including, X, C, U, (E DATE).

- 1. Explosion, Collapse & Underground coverage.
- 2. Insurance Services Office form number CA 0001 (Ed. 12/90) covering Automobile Liability, code 1 "any auto", or code 2 "owned autos" and endorsement CA 0025. Coverage also to include code 8 "hired autos" and code 9 "non-owned" autos.
- 3. Workers' Compensation insurance as required by the Labor Code of the State of California and Employers Liability insurance.
- 4. PROPERTY Insurance against all risks of loss to any tenant improvement or betterments.

B. <u>Minimum Limits of Insurance</u>.

COMPANY shall maintain limits no less than:

- 1. Commercial General Liability: \$1,000,000 per occurrence for bodily injury, personal injury, and property damage. If Commercial General Liability insurance or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.
- 2. Automobile Liability: \$1,000,000 combined single limit per accident for bodily injury and property damage.

- 3. Workers' Compensation and Employers Liability: Workers' Compensation limits as required by the Labor Code of the State of California and Employers Liability limits of \$100,000 per accident.
- 4. Property Insurance: Full replacement cost with no co-insurance penalty provision.

C. Other Insurance Provisions.

The policies are to contain, or be endorsed to contain, the following provisions:

- 1. Commercial General Liability and Automobile Liability Coverage(s)
 - a. The City of Morgan Hill, its officers, employees, agents and contractors are to be covered as additional insured(s) as respects: Liability arising out of activities performed by or on behalf of, COMPANY; products and completed operations of COMPANY; premises owned, leased or used by COMPANY; and automobiles owned, leased, hired or borrowed by COMPANY. The coverage shall contain no special limitations on the scope of protection afforded to CITY, its officers, employees, agents and contractors.
 - b. COMPANY'S insurance coverage shall be primary insurance as respects CITY, its officers, employees, agents and contractors. Any insurance or self-insurance maintained by CITY, its officers, employees, agents or contractors shall be excess of COMPANY'S insurance and shall not contribute with it.
 - c. Any failure to comply with reporting provisions of the policies by COMPANY shall not affect coverage provided CITY, its officers, employees, agents, or contractors.
 - d. Coverage shall state that COMPANY'S insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

2. All Coverage(s)

Each insurance policy required by this AGREEMENT shall not be cancelled or materially changed except after thirty (30) days' prior written notice has been given to CITY.

D. <u>Acceptability of Insurers</u>.

Insurance is to be placed with insurers with an AM Best rating of A-VII or greater.

E. <u>Verification of Coverage</u>.

COMPANY shall furnish CITY with copies of broad form additional insured endorsement upon execution of this lease and upon each policy renewal thereafter. The certificates and endorsements for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf. CITY has right to review and approve any replacement insurance policy and would not reasonably withhold such approval.

Proof of insurance shall be mailed to the following address or any subsequent address as may be directed in writing by the Risk Manager:

CITY OF MORGAN HILL Risk Manager 17555 Peak Avenue Morgan Hill, California 95112-5509

F. <u>Subcontractors</u>.

COMPANY shall require all subcontractors to obtain coverage as specified above.



MARCH 2004 FINANCE & INVESTMENT REPORT

Prepared By:	
Finance Director	
Submitted By:	

City Manager

Agenda Item # 6

RECOMMENDED ACTION:

Accept and File Report

EXECUTIVE SUMMARY:

Attached is the monthly Finance and Investment Report for the period ended March 31, 2004. The report covers the first nine months of activity for the 2003/2004 fiscal year. A summary of the report is included on the first page for the City Council's benefit.

The monthly Finance and Investment Report is presented to the City Council and our Citizens as part of our ongoing commitment to improve and maintain public trust through communication of our finances, budget and investments. The report also serves to provide the information necessary to determine the adequacy/stability of financial projections and develop equitable resource/revenue allocation procedures.

This report covers all fiscal activity in the City, including the Redevelopment Agency. The Redevelopment Agency receives a separate report for the fiscal activity of the Agency at the meeting of the Agency. Presenting this report is consistent with the goal of *Maintaining and Enhancing the Financial Viability of the City*.

FISCAL IMPACT: as presented

CITY OF MORGAN HILL Monthly Financial and Investment Reports

March 31, 2004 - 75% Year Complete



Prepared by:

FINANCE DEPARTMENT



CITY OF MORGAN HILL, CALIFORNIA FINANCIAL STATEMENT ANALYSIS - FISCAL YEAR 2003/04 FOR THE MONTH OF MARCH 2004 - 75% OF YEAR COMPLETE

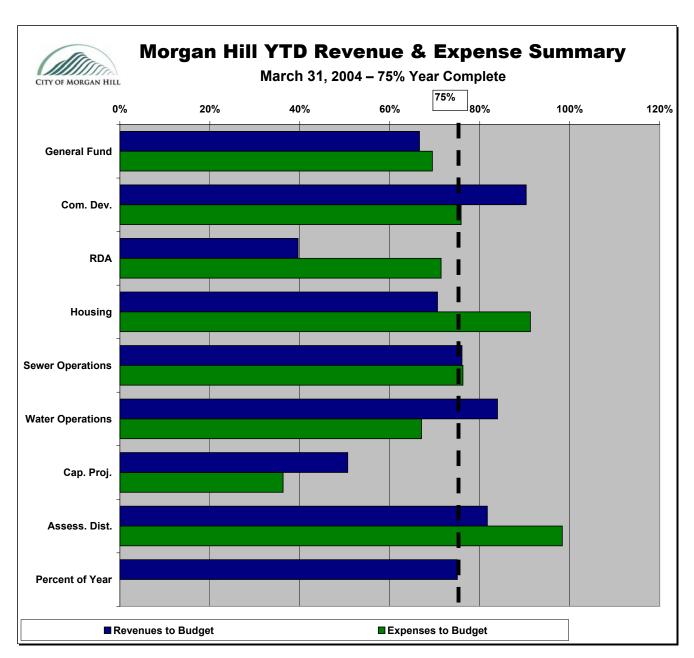
This analysis of the status of the City's financial situation reflects 75% of the year.

- **General Fund** The revenues received in the General Fund were approximately 67% of the budgeted revenues. Property related taxes received by the City amounted to 88% of the budget. The amount of Sales Tax collected was 68% of the sales tax revenue budget and was 9% less than the amount collected for the same period last year. Business license and other permit collections were 89% of the budgeted amount, a 2% increase over the same period last year. Business license renewal fees were due in July; therefore the higher percent of budget collected early in the year is normal. Motor Vehicle-in-Lieu revenues were only \$1,040,105, or 50% of the budgeted amount, which was 31% less than the amount received at this time last year. This drop in Motor Vehicle-in-Lieu fees was caused by the State's elimination of the "State backfill" for these fees for at least a three month period, resulting in much lower fees received by the City. A somewhat higher level of Motor Vehicle-in-Lieu fees should be received by the City over the rest of the fiscal year. As of this date, the State's fiscal crisis continues to make this process complicated and problematic. Interest & Other Revenue were 64% of budget and reflect interest earnings only through December, since earnings for the quarter ending March will be posted following the end of the third quarter in April. Certain current year revenues have not yet been received this early in the year. Most gas & electric franchise fees and cable TV franchise fees will not be received by the City until later in the year.
- * The General Fund expenditures and encumbrances to date totaled 69% of the budgeted appropriations. The outstanding encumbrances in several activities are encumbrances for projects started but not completed in the prior year and carried forward to the current fiscal year.
- * Transient Occupancy (Hotel) Tax The TOT rate is 10%. The City receives transient occupancy taxes on a quarterly basis. Taxes for the first two quarters of the current year amounted to \$468,456, or 53% of budget, which was slightly less than the amount received in the prior year by this point. Taxes for the third quarter ended March 31 will be received by the City in April.
- * Community Development Revenues were 90% of budget, which was 17% more than the amount collected in the like period for the prior year. Planning expenditures plus encumbrances were 92% of budget; Building has expended or encumbered 63% of budget and Engineering 69%. Community Development has expended or encumbered a combined total of 76% of the 2003/04 budget, including \$374,997 in encumbrances. If encumbrances were excluded, Community Development would have spent only 65% of the combined budget.
- * RDA and Housing Property tax increment revenues amounting to \$11,761,840 have been received as of March 31, 2004. Expenditures plus encumbrances totaled 67% of budget. If encumbrances totaling \$8,320,669 were excluded, the RDA would have spent only 50% of the combined budget. In July, the RDA spent \$3.4 million toward the Courthouse Project acquisition and, in March, spent another \$875,000 toward construction of the Courthouse Project. In August, the Agency made a \$2.55 million installment payment toward the purchase of the Sports Fields Complex property. In July, the Agency made a \$3 million loan to South County Housing for the Royal Court Housing. Through March 31, 2004, \$5.0 million in costs had been incurred associated with the construction of the Aquatics Complex Project.



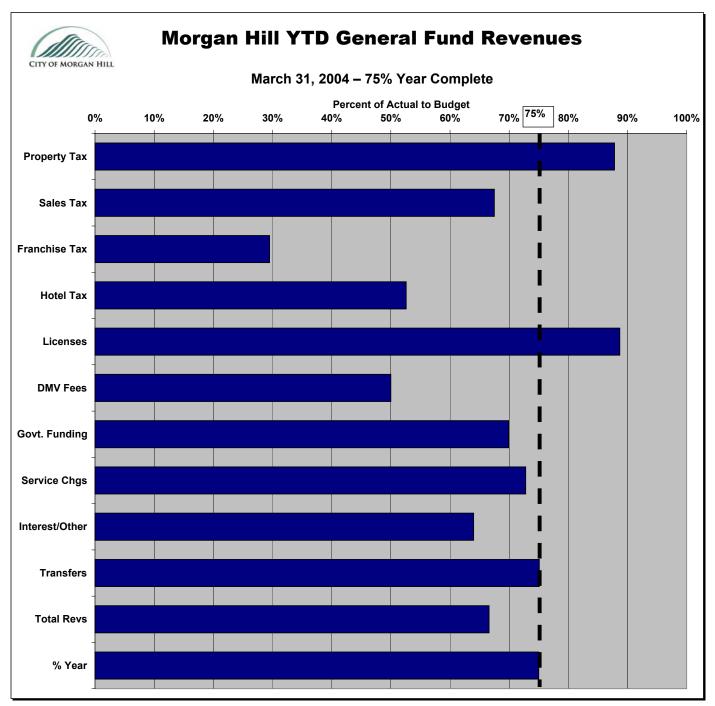
CITY OF MORGAN HILL, CALIFORNIA FINANCIAL STATEMENT ANALYSIS - FISCAL YEAR 2003/04 FOR THE MONTH OF FEBRUARY 2004 - 67% OF YEAR COMPLETE

- * Water and Sewer Operations- Water Operations revenues, including service fees, were 84% of budget. Expenditures totaled 67% of appropriations. Sewer Operations revenues, including service fees, were 76% of budget. Expenditures for sewer operations were 78% of budget.
- * Investments maturing/called/sold during this period. During the month of February, \$6 million of the City's Federal Agency investments was called and \$10 million was invested in new Federal Agency investments. Further details of all City investments are contained on pages 6-8 of this report.



	REVENU	IES	EXPENS	ES	3/31/2004
		% OF	ACTUAL plus	% OF	UNRESTRICTED
FUND NAME	ACTUAL	BUDGET	ENCUMBRANCES	BUDGET	FUND BALANCE
General Fund	\$10,704,373	67%	\$11,580,013	69%	\$10,260,865
Community Development	2,078,966	90%	2,512,730	76%	1,117,966
RDA	9,321,808	40%	29,174,731	71%	(1,258,708)
Housing/CDBG	2,819,516	71%	4,530,438	91%	4,757,428
Sewer Operations	4,172,429	76%	5,729,870	76%	3,477,669
Sewer Other	2,250,649	181%	1,525,528	29%	12,073,556
Water Operations	5,937,398	84%	5,342,031	67%	3,174,307
Water Other	1,459,546	135%	3,564,037	55%	2,505,535
Other Special Revenues ¹	584,135	71%	1,227,486	47%	2,401,779
Capital Projects & Streets Funds	6,849,830	51%	8,199,374	36%	23,708,525
Debt Service Funds	128,767	82%	232,424	98%	404,722
Internal Service	2,802,972	68%	3,040,887	75%	4,354,071
Agency	2,138,858	80%	4,587,661	176%	2,751,915
TOTAL FOR ALL FUNDS	\$51,249,247	62%	\$81,247,210	62%	\$69,729,630

¹ Includes all Special Revenue Funds except Community Development, CDBG, and Street Funds

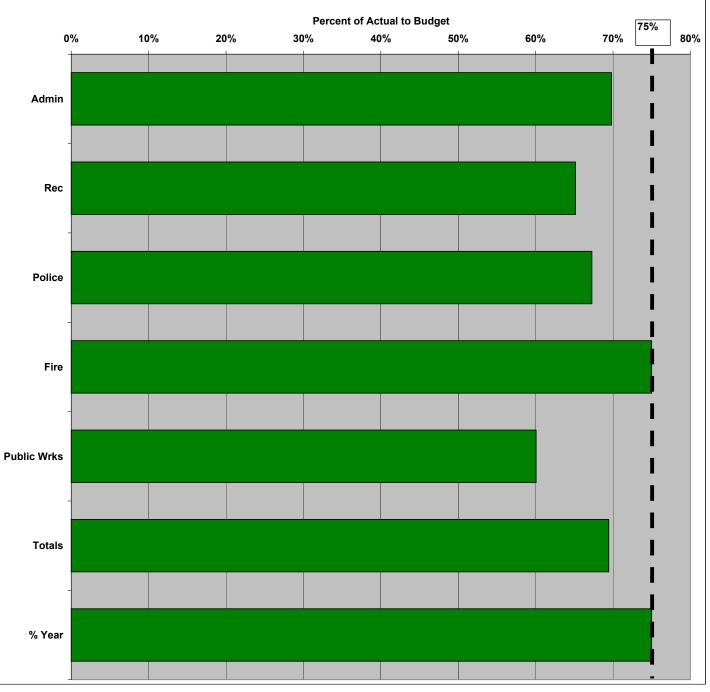


			% OF	PRIOR YEAR	% CHANGE FROM
REVENUE CATEGORY	BUDGET	ACTUAL	BUDGET	TO DATE	PRIOR YEAR
PROPERTY RELATED TAXES	\$2,440,000	\$2,143,514	88%	\$1,757,906	22%
SALES TAXES	\$4,923,000	\$3,324,963	68%	\$3,654,507	-9%
FRANCHISE FEE	\$961,180	\$283,422	30%	\$495,421	-43%
HOTEL TAX	\$890,000	\$468,456	53%	\$469,711	
LICENSES/PERMITS	\$202,600	\$179,756	89%	\$177,027	2%
MOTOR VEHICLE IN LIEU	\$2,080,000	\$1,040,105	50%	\$1,506,428	-31%
FUNDING - OTHER GOVERNMENTS	\$271,900	\$189,935	70%	\$61,946	207%
CHARGES CURRENT SERVICES	\$2,588,137	\$1,883,273	73%	\$1,661,836	13%
INTEREST & OTHER REVENUE	\$893,050	\$571,891	64%	\$429,837	33%
TRANSFERS IN	\$823,986	\$619,058	75%	\$668,999	-7%
			•		
TOTALS	\$16,073,853	\$10,704,373	67%	\$10,883,618	-2%



Morgan Hill YTD General Fund Expenditures

March 31, 2004 - 75% Year Complete



Expenditure Category	Budget	Actual Plus cumbrances	% of Budget
ADMINISTRATION	3,279,302	2,382,577	70%
RECREATION	2,012,348	1,311,240	65%
POLICE	6,812,300	4,583,218	67%
FIRE	3,745,220	2,808,733	75%
PUBLIC WORKS	822,840	494,245	60%
TOTALS	\$ 16,672,844	\$ 11,580,013	69%



City of Morgan Hill Fund Activity Summary - Fiscal Year 2003/04 For the Month of March 2004 75% of Year Completed

		000000000000000000000000000000000000000	Revenues	1070 01 10	Expenses		Year to-Date	Ending Fun	d Balance	Cash and In	vestments
Fund		Fund Balance	YTD	% of	YTD	% of	Deficit or				
No.	Fund	06-30-03	Actual	Budget	Actual	Budget	Carryover	Reserved ¹	Unreserved	Unrestricted	Restricted ²
010	GENERAL FUND	\$11,136,505	\$10,704,373	67%	\$11,166,638	67%	(\$462,265)	\$413,375	\$10,260,865	\$11,397,958	\$4,150
TOTAL G	ENERAL FUND	<u>\$11,136,505</u>	<u>\$10,704,373</u>	<u>67%</u>	<u>\$11,166,638</u>	<u>67%</u>	(\$462,265)	<u>\$413,375</u>	<u>\$10,260,865</u>	<u>\$11,397,958</u>	<u>\$4,150</u>
202	STREET MAINTENANCE	\$1,683,131	\$1,400,653	102%	\$1,557,216	54%	(\$156,563)	\$387,654	\$1,138,914	\$1,340,161	
204/205	PUBLIC SAFETY/SUPPL. LAW	\$485,350	\$104,295	94%	\$205,186	75%	(\$100,891)		\$384,459	\$384,460	
206	COMMUNITY DEVELOPMENT	\$1,551,730	\$2,078,966	90%	\$2,137,733	65%	(\$58,767)	\$374,997	\$1,117,966	\$1,529,702	
207	GENERAL PLAN UPDATE	\$190,845	\$74,576	98%	\$49,831	25%	\$24,745	\$93,405	\$122,185	\$215,679	
210	COMMUNITY CENTER	\$360,157	\$2,751	44%	\$234,000	75%	(\$231,249)	. ,	\$128,908	\$128,908	
215 / 216		\$636,136	\$6,664	4%	\$98,366	21%	(\$91,702)	542,363	\$2,071	\$145,487	
220	MUSEUM RENTAL	\$1,274	\$8	20%	\$1,673	69%	(\$1,665)	, , , , , ,	(\$391)	(\$391)	
225	ASSET SEIZURE	\$38,096	\$359	62%	, , , , , , , , , , , , , , , , , , , ,	n/a	\$359		\$38,455	\$38,455	
229	LIGHTING AND LANDSCAPE	\$33,766	\$68,851	54%	\$114,442	69%	(\$45,591)	\$24,934	(\$36,759)	(\$11,536)	
232	ENVIRONMENT PROGRAMS	\$613,697	\$227,948	59%	\$272,475	55%	(\$44,527)	\$79,938	\$489,232	\$571,705	
234	MOBILE HOME PK RENT STAB.	\$9,808	\$55,044	98%	\$90,791	101%	(\$35,747)	\$22,153	(\$48,092)	(\$25,939)	
235	SENIOR HOUSING	\$255,610	\$2,407	35%	\$4,300	30%	(\$1,893)	Ψ 22 , 100	\$253,717	\$253,717	
236	HOUSING MITIGATION	\$1,043,306	\$24,857	89%	8,489	1%	\$16,368	6,511	\$1,053,163	\$1,059,674	
240	EMPLOYEE ASSISTANCE	\$8,921	\$23,039	114%	15,058	75%	\$7,981	0,011	\$16,902	\$14,293	
TOTAL S	PECIAL REVENUE FUNDS	\$6,911,827	\$4,070,418	88%	\$4,789,560	52%	(\$719,142)	\$1,531,955	\$4,660,730	\$5,644,375	
		40,0 : 1,02 :	\$ 1,010,110	<u> </u>	<u> </u>	<u> </u>	(41.14,1.12)	71,001,000	\$ 1,000,700	<u> </u>	
301	PARK DEV. IMPACT FUND	\$3,191,630	\$712,349	164%	\$270,766	13%	\$441,583	\$191,622	\$3,441,591		\$3,633,213
302	PARK MAINTENANCE	\$2,909,243	\$273,665	106%	\$150,000	75%	\$123,665		\$3,032,908	\$3,032,908	
303	LOCAL DRAINAGE	\$2,910,954	\$178,427	61%	\$9,130	0%	\$169,297		\$3,080,251	. , ,	\$3,080,251
304	LOCAL DRAINAGE/NON-AB1600	\$3,276,514	\$112,165	71%	\$85,992	39%	\$26,173	\$16,097	\$3,286,590	\$3,182,686	, = / = = = /
305	OFF-STREET PARKING	\$4,020	\$38	40%	4,058	102%	(\$4,020)	. ,	` , , ,	, , ,	
306	OPEN SPACE	\$458,488	\$140,364	244%	·		\$140,364	\$10,000	\$588,852	\$598,852	
309	TRAFFIC IMPACT FUND	\$2,826,115	\$1,238,063	187%	\$513,303	25%	\$724,760	\$557,725	\$2,993,150		\$3,536,549
311	POLICE IMPACT FUND	\$1,183,045	\$86,851	168%	\$23,918	2%	\$62,933	\$10,000	\$1,235,978		\$1,245,978
313	FIRE IMPACT FUND	\$2,603,859	\$181,928	123%	\$519,863	94%	(\$337,935)	\$9,101	\$2,256,823		\$2,265,925
317	REDEVELOPMENT AGENCY	\$20,860,548	\$9,321,808	40%	\$20,921,542	51%	(\$11,599,734)	10,519,522	(\$1,258,708)	\$7,011,112	, , , , , , , ,
327 / 328		\$24,240,428	\$2,812,852	73%	\$4,270,824	45%	(\$1,457,972)	18,027,099	\$4,755,357	\$4,828,385	
340	MORGAN HILL BUS.RANCH I	\$48,290	\$455	40%	, , , , ,		\$455	7,5	\$48,745	\$48,745	
342	MORGAN HILL BUS.RANCH II	\$54,233	511	n/a			\$511		\$54,744	\$54,744	
346	PUBLIC FACILITIES NON-AB1600	\$1,332,714	\$1,942,192	20%	905,859		\$1,036,333	\$1,791,106	\$577,941	\$2,181,547	
347	PUBLIC FACILITIES IMPACT FUND	\$665,032	\$473,454	304%	\$145,184	15%	\$328,270	577,647	\$415.655	. , ,	\$956,631
348	LIBRARY IMPACT FUND	\$414,456	\$54,989	179%	\$169	75%	\$54,820	, ,	\$469,276		\$469,276
350	UNDERGROUNDING	\$1,257,217	48,153	153%	\$126,901	67%	(\$78,748)	96,935	\$1,081,534	\$1,178,470	, , , , ,
360	COMM/REC CTR IMPACT FUND	. , ,	5,573	153%	. ,	67%	\$5,573	ŕ	\$5,573	\$5,573	
TOTAL C	APITAL PROJECT FUNDS	\$68,236,786	<u>\$17,583,837</u>	<u>44%</u>	<u>\$27,947,509</u>	<u>40%</u>	(\$10,363,672)	<u>\$31,806,854</u>	\$26,066,260	<u>\$22,123,022</u>	<u>\$15,187,823</u>
		1		, 1	1		-				
527	HIDDEN CREEK			n/a							
533	DUNNE/CONDIT			n/a							
536	ENCINO HILLS	\$68,027	\$640	39%			\$640		\$68,667	\$68,667	
539	MORGAN HILL BUS. PARK	\$11,867	\$111	25%			\$111		\$11,978	\$11,978	
542	SUTTER BUSINESS PARK	\$24,910	\$235	32%			\$235		\$25,145	\$25,145	
545	COCHRANE BUSINESS PARK	\$374,418	\$109,906	92%	\$193,324	99%	(\$83,418)		\$291,000	\$110,050	\$180,950
551	JOLEEN WAY	\$29,157	\$17,875	51%	\$39,100	96%	(\$21,225)		\$7,932	(\$9,317)	\$17,250
TOTAL D	EBT SERVICE FUNDS	<u>\$508,379</u>	<u>\$128,767</u>	<u>82%</u>	<u>\$232,424</u>	<u>98%</u>	<u>(\$103,657)</u>		\$404,722	<u>\$206,523</u>	\$198,200



City of Morgan Hill Fund Activity Summary - Fiscal Year 2003/04 For the Month of March 2004 75% of Year Completed

		490000000000000000000000000000000000000					Y	F. P. F	I B. I	0 1 11	
l			Revenues	0/ 5	Expenses	0/ 5	Year to-Date	Ending Fun	id Balance	Cash and In	vestments
Fund		Fund Balance	YTD	% of	YTD	% of	Deficit or	1			2
No.	Fund	06-30-03	Actual	Budget	Actual	Budget	Carryover	Reserved'	Unreserved	Unrestricted	Restricted ²
640	SEWER OPERATIONS	\$16,004,091	\$4,172,429	76%	\$5,647,344	75%	(\$1,474,915)	\$11,051,507	\$3,477,669	\$3,102,652	\$1,893,400
641	SEWER IMPACT FUND	\$7,772,110	\$1,812,573	289%	\$580,118	16%	\$1,232,455	3,241,997	\$5,762,568	ψ0,102,002	\$5,919,095
642	SEWER RATE STABILIZATION	\$3,804,228	\$35,859	40%	\$1.777	75%	\$34,082	0,241,007	\$3,838,310	\$3,838,310	ψο,στο,σσο
643	SEWER-CAPITAL PROJECTS	\$9,683,556	\$402,217	77%	\$473,603	29%	(\$71,386)	7,139,492	\$2,472,678	\$2,907,234	
650	WATER OPERATIONS	\$21,476,576	\$5,937,398	84%	\$4,711,261	11%	\$1,226,137	\$19,528,407	\$3,174,307	\$3,118,020	\$390,542
651	WATER OF ERATIONS WATER IMPACT FUND	\$3,271,280	\$895,226	135%	\$916,817	35%	(\$21,591)	3,935,889	(\$686,201)	ψ3,110,020	(\$136,474)
652	WATER MIPACT FORD WATER RATE STABILIZATION	\$867,428	\$6,423	31%	\$637,913	75%	(\$631,490)	3,933,009	\$235,938	\$235,938	(\$130,474)
653	WATER RATE STABILIZATION WATER -CAPITAL PROJECT	\$9,092,130	\$557,897	139%	\$690,935	23%	(\$133,038)	6,003,294	\$2,955,798	\$3,724,441	
		\$9,092,130	\$557,097	139%	\$090,93 <u>5</u>	23%	(\$133,036)	6,003,294	\$2,955,796	\$3,724,441	
TOTAL E	NTERPRISE FUNDS	<u>\$71,971,399</u>	<u>\$13,820,022</u>	<u>93%</u>	<u>\$13,659,768</u>	<u>50%</u>	<u>\$160,254</u>	\$50,900,586	<u>\$21,231,067</u>	<u>\$16,926,595</u>	<u>\$8,066,563</u>
730	DATA PROCESSING	\$436,026	\$183,947	75%	\$142,022	54%	\$41,925	128,813	\$349,138	\$425,889	
740	BUILDING MAINTENANCE	\$400,151	\$669,734	75%	\$302,713	46%	\$367,021	30,662	\$736,510	\$779,293	
745	CIP ADMINISTRATION	\$59,437	\$933,946	65%	\$933,825	60%	\$121	114,701	(\$55,143)	\$101,203	
760	UNEMPLOYMENT INS.	\$47,278	\$7,363	25%	\$28,318	94%	(\$20,955)		\$26,323	\$26,323	
770	WORKER'S COMP.	\$6,147	\$339,274	49%	\$564,138	77%	(\$224,864)	28,950	(\$247,667)	\$333,903	\$40,000
790	EQUIPMENT REPLACEMENT	\$3,379,971	\$195,966	73%	\$43,318	17%	\$152,648	762,597	\$2,770,022	\$2,978,586	
793	CORPORATION YARD	\$264,851	\$184,200	115%	\$152,454	89%	\$31,746	299,110	(\$2,513)	\$44,533	
795	GEN'L LIABILITY INS.	\$856,668	\$288,542	74%	\$367,809	99%	(\$79,267)	,	\$777,401	\$1,103,217	
TOTAL IN	ITERNAL SERVICE FUNDS	¢E 4E0 E20	£2 002 072		£2 E24 E07	630/	¢269.275		¢4.254.074	¢E 702 047	£40.000
TOTAL	ITERNAL SERVICE FUNDS	<u>\$5,450,529</u>	<u>\$2,802,972</u>	<u>68%</u>	<u>\$2,534,597</u>	<u>63%</u>	<u>\$268,375</u>		<u>\$4,354,071</u>	<u>\$5,792,947</u>	<u>\$40,000</u>
000	ODEOLAL DEDOOLEO	1	1	1				1	П	4070.000	
820	SPECIAL DEPOSITS	#4.040.050	4070 755	500/	00 000 070	0700/	(04.000.000)		#00.000	\$876,869	
841	M.H. BUS.RANCH A.D.	\$1,649,856	\$379,755	52%	\$2,008,978	278%	(\$1,629,223)		\$20,633	\$20,632	
842	M.H. BUS. RANCH II A.D.	\$107,240	\$36,175	97%	\$140,609	362%	(\$104,434)		\$2,806	\$2,806	
843	M.H. BUS. RANCH 1998	\$1,492,569	\$417,131	82%	\$871,396	100%	(\$454,265)		\$1,038,304	\$153,737	\$884,567
844	MH RANCH RSMNT 2004A		\$760,459		\$589,424	n/a	\$171,035		\$171,035	\$1,035	\$527,124
845	MADRONE BP-TAX EXEMPT	\$1,312,253	\$398,045		\$806,946	101%	(\$408,901)		\$903,352	\$105,391	\$797,962
846	MADRONE BP-TAXABLE	\$256,944	\$83,557	80%	\$170,308	99%	(\$86,751)		\$170,192	\$16,129	\$154,064
848	TENNANT AVE.BUS.PK A.D.	\$360,919	\$63,534	82%		na	\$63,534		\$424,453	\$424,452	
881	POLICE DONATION TRUST FUND	\$20,938	\$202	82%			\$202		\$21,140		\$21,141
TOTAL A	GENCY FUNDS	\$5,200,719	\$2,138,858	80%	\$4,587,661	176%	(\$2,448,803)		\$2,751,915	\$1,601,051	\$2,384,858
		<u></u>									
SUMMAR	RY BY FUND TYPE										
		T	T					T			
	GENERAL FUND GROUP	\$11,136,505	\$10,704,373	67%	\$11,166,638	67%	(\$462,265)	\$413,375	\$10,260,865	\$11,397,958	\$4,150
	SPECIAL REVENUE GROUP	\$6,911,827	\$4,070,418	88%	\$4,789,560	52%	(\$719,142)	\$1,531,955	\$4,660,730	\$5,644,375	
	DEBT SERVICE GROUP	\$508,379	\$128,767	82%	\$232,424	98%	(\$103,657)		\$404,722	\$206,523	\$198,200
	CAPITAL PROJECTS GROUP	\$68,236,786	\$17,583,837	44%	\$27,947,509	40%	(\$10,363,672)	\$31,806,854	\$26,066,260	\$22,123,022	\$15,187,823
	ENTERPRISE GROUP	\$71,971,399	\$13,820,022	93%	\$13,659,768	50%	\$160,254	\$50,900,586	\$21,231,067	\$16,926,595	\$8,066,563
	INTERNAL SERVICE GROUP	\$5,450,529	\$2,802,972	68%	\$2,534,597	63%	\$268,375		\$4,354,071	\$5,792,947	\$40,000
	AGENCY GROUP	\$5,200,719	\$2,138,858	80%	\$4,587,661	176%	(\$2,448,803)		\$2,751,915	\$1,601,051	\$2,384,858
	TOTAL ALL GROUPS	<u>\$169,416,144</u>	<u>\$51,249,247</u>	<u>62%</u>	<u>\$64,918,157</u>	<u>50%</u>	<u>(\$13,668,910)</u>	<u>\$84,652,770</u>	\$69,729,630	\$63,692,471	<u>\$25,881,594</u>
	TOTAL CASH AND INVESTMENTS									<u>\$89,574,065</u>	
									=		

For Enterprise Funds - Unrestricted fund balance = Fund balance net of fixed assets and long-term liabilities.

¹ Amount restricted for encumbrances, fixed asset replacement, long-term receivables, and bond reserves.

² Amount restricted for debt service payments and AB1600 capital expansion projects as detailed in the City's five year CIP Plan and bond agreements.



CITY OF MORGAN HILL CASH AND INVESTMENT REPORT FOR THE MONTH OF MARCH 2004 FOR THE FISCAL YEAR OF 2003-04

	Invested		Book Value	Investment Category	% of	Market
	in Fund	Yield	End of Month	Subtotal at Cost	Total	Value
<u>Investments</u>						
State Treasurer LAIF - City	All Funds Pooled	1.44%	\$38,199,503		42.65%	\$38,222,097
- RDA	RDA	1.44%	\$6,438,854		7.19%	\$6,442,663
- Corp Yard	Corp Yard	1.44%	\$52,013		0.06%	\$52,044
Federal Issues	All Funds Pooled	3.20%	\$35,245,149		39.35%	\$35,370,353
SVNB CD	All Funds Pooled	1.70%	\$2,000,000		2.23%	\$2,000,000
Money Market	All Funds Pooled	0.82%	\$558	\$81,936,077	0.00%	\$558
Bond Reserve Accounts - held by trustees						
BNY - 2002 SCRWA Bonds						
MBIA Repurchase & Custody Agmt	Sewer	4.78%	\$1,849,399			
Blackrock Provident Temp Fund		0.75%	\$44,000		2.11%	\$1,893,400
US Bank - 1999 Water C.O.P.						
First American Treasury Obligation	Water	0.52%	\$390,542		0.44%	\$390,542
US Bank - MH Ranch 98	MH Ranch					
First American Treasury Obligation	Agency Fund	0.52%	\$884,567		0.99%	\$884,567
US Bank - Madrone Bus Park Tax Exempt	Madrone Bus Park					
First American Treasury Obligation	Agency Fund	0.52%	\$797,962		0.89%	\$797,962
US Bank - Madrone Bus Park Taxable	Madrone Bus Park					
First American Treasury Obligation	Agency Fund	0.52%	\$154,064		0.17%	\$154,064
BNY - MH Ranch 2004 A	MH Ranch Bus Park					
Blackrock Provident Temp Fund	Agency Fund	0.75%	\$527,124	\$4,647,658	0.59%	\$527,124
Checking Accounts						
General Checking	All Funds		\$1,446,180		1.61%	\$1,446,180
Dreyfuss Treas Cash Management Account	All Funds		\$1,500,000		1.67%	\$1,500,000
Athens Administators Workers' Comp	Workers' Comp		\$40,000		0.04%	\$40,000
Petty Cash & Emergency Cash	Various Funds	-	\$4,150	\$2,990,330	0.00%	\$4,150
Total Cash and Investments			<u>\$89,574,065</u>	<u>\$89,574,065</u>	100.00%	\$89,725,704
MH Financing Authority Investment in MH Ranch AD Imprvmt Bond Series 2004		1.75% to 4.50%	<u>\$4,795,000</u>			<u>Unavailable</u>

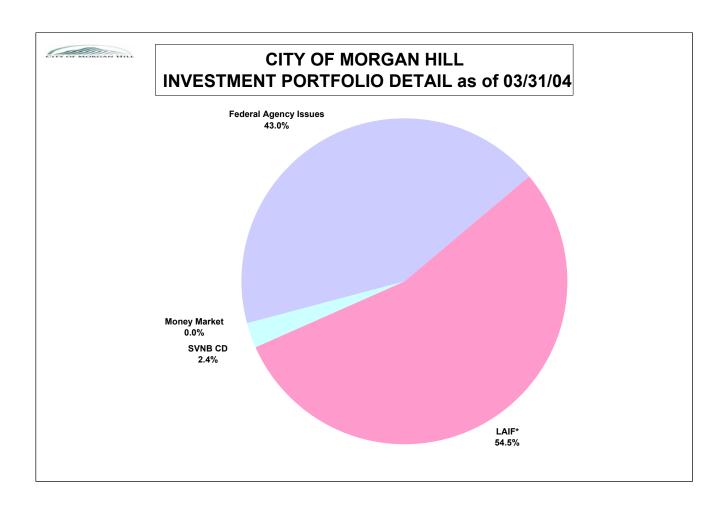
CASH ACTIVITY SUMMARY FY 03/04

	7/1/2003	Change in	03/31/04		
Fund Type	Balance	Cash Balance	Balance	Restricted	Unrestricted
General Fund	\$11,198,677	\$203,431	\$11,402,108	\$4,150	\$11,397,958
Community Development	\$1,598,168	(\$68,466)	\$1,529,702	\$0	\$1,529,702
RDA (except Housing)	\$18,789,948	(\$11,778,836)	\$7,011,112	\$0	\$7,011,112
Housing / CDBG	\$6,264,517	(\$1,290,645)	\$4,973,872	\$0	\$4,973,872
Water - Operations	\$2,197,360	\$1,311,202	\$3,508,562	\$390,542	\$3,118,020
Water Other	\$4,882,333	(\$1,058,428)	\$3,823,905	-\$136,474	\$3,960,379
Sewer - Operations	\$6,399,908	(\$1,403,856)	\$4,996,052	\$1,893,400	\$3,102,652
Sewer Other	\$11,899,860	\$764,779	\$12,664,639	\$5,919,095	\$6,745,544
Other Special Revenue	\$3,011,901	(\$382,876)	\$2,629,025	\$0	\$2,629,025
Streets and Capital Projects (except RDA)	\$24,402,072	\$2,409,438	\$26,811,510	\$15,187,824	\$11,623,686
Assessment Districts	\$504,821	(\$100,098)	\$404,723	\$198,200	\$206,523
Internal Service	\$5,993,387	(\$160,440)	\$5,832,947	\$40,000	\$5,792,947
Agency Funds	\$5,943,872	<u>(\$1,957,964)</u>	\$3,985,908	\$2,384,857	\$1,601,051
Total	<u>\$103,086,824</u>	(\$13,512,759)	\$89,574,065	\$25,881,594	\$63,692,471

Note: See Investment Porfolio Detail for maturities of "Investments." Market values are obtained from the City's investment brokers' monthly reports. *Market Value as of 02/29/04

I certify the information on the investment reports on pages 6-8 has been reconciled to the general ledger and bank statements and that there are sufficient funds to meet the expenditure requirements of the City for the next six months. The portfolio is in compliance with the City of Morgan Hill investment policy and all State laws and regulations.

Prepared by:		Approved by:		
	Lourdes Reroma Accountant I	, , , , , , , , , , , , , , , , , , , ,	Jack Dilles Director of Finance	
Verified by:	Ting Days		Miles Deards	
	Tina Reza Assistant Director of Finance		Mike Roorda City Treasurer	



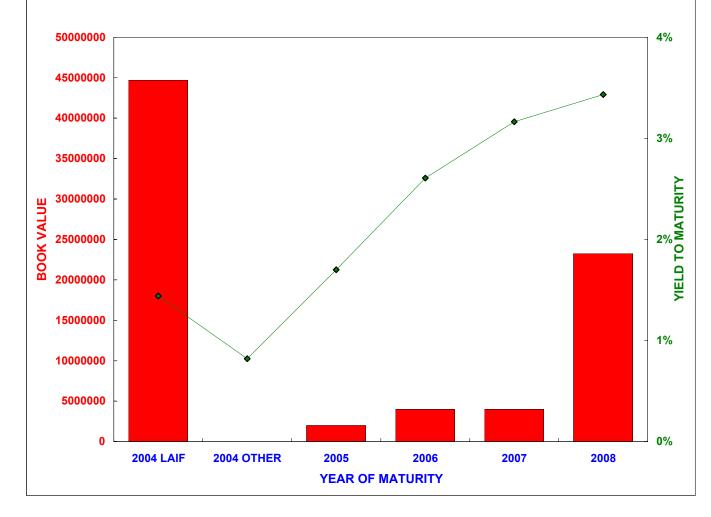
Investment Type	Purchase Date	Book Value	% of Portfolio	Market Value	Stated Rate	Interest Earned	Next Call Date	Date of Maturity	Years to Maturity
				_					
LAIF*		\$44,690,370	54.54%	\$44,716,803	1.440%	\$529,422			0.003
SVNB CD	07/07/03	\$2,000,000	2.44%	\$2,000,000	1.700%	\$25,406		07/07/05	1.266
Federal Agency Issues									
Fed Home Loan Bank	02/26/04	\$2,000,000	2.44%	\$2,003,760	2.563%	\$4,929.00	05/26/04	05/26/06	2.151
Fed Home Loan Bank	03/29/04	\$2,000,000	2.44%	\$2,002,500	2.650%	\$432.00	09/29/04	12/29/06	2.745
Fed Home Loan Bank	03/18/04	\$2,000,000	2.44%	\$2,007,500	3.030%	\$2,305	06/18/04	06/18/07	3.214
Fed Home Loan Bank	03/29/04	\$2,000,000	2.44%	\$2,021,000	3.300%	\$538	09/28/04	12/28/07	3.742
Fed Home Loan Mgt Corp	03/12/03	\$2,000,000	2.44%	\$2,022,420	3.500%	\$52,690	09/12/04	03/12/08	3.948
Fed Home Loan Bank	03/26/03	\$2,000,000	2.44%	\$2,000,000	3.375%	\$50,808	anytime	03/26/08	3.986
Fed Home Loan Mgt Corp	04/08/03	\$2,000,000	2.44%	\$2,001,060	3.700%	\$55,601	04/08/04	04/08/08	4.022
Fed Home Loan Mgt Corp	04/16/03	\$2,000,000	2.44%	\$2,002,180	3.600%	\$54,098	04/16/04	04/16/08	4.044
Fed Home Loan Mgt Corp	04/17/03	\$1,995,149	2.44%	\$2,002,220	3.625%	\$56,369	04/17/04	04/17/08	4.047
Fed Farm Credit Bank	06/03/03	\$2,000,000	2.44%	\$2,007,500	3.210%	\$48,238	04/03/04	06/03/08	4.175
Fed Farm Credit Bank	06/12/03	\$2,000,000	2.44%	\$2,003,760	2.950%	\$44,331	04/30/04	06/12/08	4.200
Fed Home Loan Bank	07/30/03	\$2,000,000	2.44%	\$2,011,260	3.000%	\$40,220	04/30/04	07/30/08	4.332
Fed Home Loan Bank	07/30/03	\$2,000,000	2.44%	\$2,003,760	3.243%	\$43,840	04/30/04	07/30/08	4.332
Fed Home Loan Bank	07/30/03	\$2,000,000	2.44%	\$2,003,760	3.400%	\$45.582	04/30/04	07/30/08	4.332
Fed Home Loan Bank	08/14/03	\$1,250,000	1.53%	\$1,253,913	3.690%	\$29.018	05/14/04	08/14/08	4.373
Fed Home Loan Bank	10/15/03	\$2,000,000	2.44%	\$2,030,620	4.000%	\$18,470	10/15/04	10/15/08	4.542
Fed Farm Credit Bank	03/16/04	\$2,000,000	2.44%	\$1,989,380	3.650%	\$3,174	06/16/04	03/16/09	4.959
Fed Home Loan Bank	03/26/04	\$2,000,000	2.44%	\$2,003,760	4.000%	\$1.964	04/26/04	06/26/09	4.986
Redeemed FY 03/04		+=,,	,	* _,,		\$295,197			
Sub Total/Average		\$35,245,149	43.02%	\$35,370,353	3.204%	\$847,804			4.000
		. ,		. ,		,			
Money Market		\$558	0.00%	\$558	0.820%	\$8,187			0.003
TOTAL/AVERAGE		\$81,936,077	100.00%	\$82,087,714	2.269%	\$1,410,819			1.753

^{*}Per State Treasurer Report dated 02/29/2004, LAIF had invested approximately 15% of its balance in Treasury Bills and Notes, 15% in CDs, 22% in Commercial Paper and Corporate Bonds, 0% in Banker's Acceptances and 48% in others.



CITY OF MORGAN HILL

INVESTMENT MATURITIES AS OF MARCH 31, 2004



YEAR OF	BOOK	MARKET	AVERAGE	% OF
MATURITY	VALUE	VALUE	RATE	TOTAL
2004 LAIF	\$44,690,370	\$44,716,803	1.440%	54.54%
2004 OTHER	\$558	\$558	0.820%	0.00%
2005	\$2,000,000	\$2,000,000	1.700%	2.44%
2006	\$4,000,000	\$4,006,260	2.607%	4.88%
2007	\$4,000,000	\$4,028,500	3.165%	4.88%
2008	\$23,245,149	\$23,342,453	3.433%	28.37%
2009	\$4,000,000	\$3,993,140	3.825%	4.88%
TOTAL	\$81,936,077	\$82,087,714	2.269%	100.00%



FUND REVENUE SOURCE	ADOPTED BUDGET	AMENDED BUDGET	CURRENT YTD ACTUAL	% OF BUDGET	PRIOR YTD	INCR (DECR) FROM PRIOR YTD	% CHANGE
010 GENERAL FUND							
TAXES							
Property Taxes - Secured/Unsecured/Prio	1,972,200	1,972,200	1,772,977	90%	1,491,237	281,740	19%
Supplemental Roll	200,000	200,000	85,600	43%	104,503	(18,903)	-18%
Sales Tax	4,650,000	4,650,000	3,162,447	68%	3,472,105	(309,658)	-9%
Public Safety Sales Tax	273,000	273,000	162,516	60%	182,402	(19,886)	-11%
Transient Occupancy Taxes	890,000	890,000	468,456	53%	469,711	(1,255)	0%
Franchise (Refuse ,Cable ,PG&E)	961,180	961,180	283,422	29%	495,421	(211,999)	-43%
Property Transfer Tax	267,800	267,800	284,937	<u>106%</u>	162,166	122,771	<u>76%</u>
TOTAL TAXES	9,214,180	9,214,180	6,220,355	68%	6,377,545	(157,190)	-2%
LICENSES/PERMITS							
Business License	154,500	154,500	148,945	96%	145,330	3,615	2%
Other Permits	48,100	48,100	30,811	<u>64%</u>	31,697	(886)	<u>-3%</u>
TOTAL LICENSES/PERMITS	202,600	202,600	179,756	89%	177,027	2,729	2%
FINES AND PENALTIES							
Parking Enforcement	13,400	13,400	9,215	69%	6,987	2,228	32%
City Code Enforcement	77,300	77,300	23,589	31%	40,964	(17,375)	-42%
Business tax late fee/other fines	2,600	2,600	1,171	<u>45%</u>	1,713	(542)	<u>-32%</u>
TOTAL FINES AND PENALTIES	93,300	93,300	33,975	36%	49,664	(15,689)	-32%
OTHER AGENCIES							
Motor Vehicle in-Lieu	2,080,000	2,080,000	1,040,105	50%	1,506,428	(466,323)	-31%
Other Revenue - Other Agencies	271,900	271,900	189,935	<u>70%</u>	61,946	127,989	<u>207%</u>
TOTAL OTHER AGENCIES	2,351,900	2,351,900	1,230,040	52%	1,568,374	(338,334)	-22%
CHARGES CURRENT SERVICES							
False Alarm Charge	24,700	24,700	11,555	47%	19,092	(7,537)	-39%
Business License Application Review	20,900	20,900	19,129	92%	18,507	622	3%
Recreation Classes	338,784	338,784	140,718	42%	76,165	64,553	85%
General Administration Overhead	2,007,978	2,007,978	1,505,984	75%	1,391,951	114,033	8%
Other Charges Current Services TOTAL CURRENT SERVICES	195,775 2,588,137	195,775 2,588,137	205,887 1,883,273	<u>105%</u> 73%	156,121 1,661,836	49,766 221,437	32% 13%
OTHER REVENUE							
Use of money/property	775,550	775,550	502,231	65%	332,215	170,016	51%
Other revenues	24,200	24,200	35,685	147%	47,958	(12,273)	-26%
TOTAL OTHER REVENUE	799,750	799,750	537,916	67%	380,173	157,743	41%
TRANSFERS IN							
Park Maintenance	200,000	200,000	150,000	75%	50,000	100,000	200%
Sewer Enterprise	17,500	17,500	13,125	75%	13,125	-	n/a
Water Enterprise	17,500	17,500	13,125	75%	13,125	-	n/a
Public Safety	273,000	273,000	204,750	75%	202,500	2,250	1%
Community Cultural Center	312,000	312,000	234,000	75%	-	234,000	n/a
Other Funds	3,986	3,986	4,058	<u>102%</u>	390,249	(386,191)	<u>-99%</u>
TOTAL TRANSFERS IN	823,986	823,986	619,058	75%	668,999	(49,941)	-7%



FUND			CURRENT			INCR (DECR)	
REVENUE	ADOPTED	AMENDED	YTD	%	PRIOR	FROM PRIOR	%
SOURCE	BUDGET	BUDGET	ACTUAL	OF BUDGET	YTD	YTD	CHANGE
SPECIAL REVENUE FUNDS							
202 STREET MAINTENANCE	052.400	052.400	407.447	700/	402 720	2.427	40/
Gas Tax 2105 - 2107.5	653,400	653,400	497,147	76%	493,720	3,427	1%
Measure A & B	-	-	_	n/a	-	-	n/a
Tea 21	700.000	700.000		n/a 75%	629 500	- (113 E00)	n/a -18%
Transfers In	700,000	700,000	525,000		638,500	(113,500)	
Project Reimbursement	14.861	- 14.861	359,118 19.388	n/a	70,402 27.255	288,716	410%
Interest / Other Revenue/Other Charges 202 STREET MAINTENANCE	1,368,261	1,368,261	1,400,653	<u>130%</u> 102%	1,229,877	<u>(7,867)</u> 170,776	<u>-29%</u> 14%
02 STREET MAINTENANCE	1,300,201	1,366,261	1,400,653	102 /0	1,229,011	170,776	14 /0
204/205 PUBLIC SAFETY TRUST							
Interest Income	9,956	9,956	4,295	43%	10,895	(6,600)	-61%
Police Grant/SLEF	100,000	100,000	100,000	100%	100,000	-	n/a
PD Block Grant	-	-	-	n/a	-	-	n/a
CA Law Enforcement Equip.Grant	-	-	-	n/a	20,765	(20,765)	-100%
Federal Police Grant (COPS)	-	-	-	n/a	17,874	(17,874)	-100%
Transfers In		834		<u>n/a</u>			<u>n/a</u>
204/205 PUBLIC SAFETY TRUST	109,956	110,790	104,295	94%	149,534	(45,239)	-30%
06 COMMUNITY DEVELOPMENT							
Building Fees	1,100,500	1,100,500	1,454,414	132%	911,929	542,485	59%
Planning Fees	616,496	616,496	328,143	53%	405,711	(77,568)	-19%
Engineering Fees	519,600	519,600	256,933	49%	433,552	(176,619)	-41%
Other Revenue/Current Charges	9,763	9,763	16,976	174%	31,556	(14,580)	-46%
<u>Transfers</u>	30,000	55,486	22,500	<u>41%</u>		22,500	n/a
206 COMMUNITY DEVELOPMENT	2,276,359	2,301,845	2,078,966	90%	1,782,748	296,218	17%
207 GENERAL PLAN UPDATE	76,087	76,087	74,576	98%	87,355	(12,779)	-15%
215 and 216 HCD BLOCK GRANT							
HCD allocation	152,000	152,000		n/a	-	-	n/a
Interest Income/Other Revenue	3,900	3,900	6,664	171%	15,437	(8,773)	-57%
<u>Transfers</u>	782	782		<u>n/a</u>			<u>n/a</u>
15 and 216 HCD BLOCK GRANT	156,682	156,682	6,664	4%	15,437	(8,773)	-57%
10 COMMUNITY CENTER	6,198	6,198	2,751	44%	113,727	(110,976)	-98%
20 MUSEUM RENTAL	41	41	8	20%	54	(46)	-85%
25 ASSET SEIZURE	583	583	359	62%	862	(503)	-58%
29 LIGHTING AND LANDSCAPE	127,770	127,770	68,851	54%	68,325	526	1%
32 ENVIRONMENTAL PROGRAMS	387,209	387,209	227,948	59%	231,551	(3,603)	-2%
34 MOBILE HOME PARK RENT STAB.	56,298	56,298	55,044	98%	6,665	48,379	726%
35 SENIOR HOUSING	6,897	6,897	2,407	35%	15,070	(12,663)	-84%
36 HOUSING MITIGATION	27,775	27,775	24,857	89%	16,862	7,995	47%
40 EMPLOYEE ASSISTANCE	20,162	20,162	23,039	114%	48,519	(25,480)	-53%
OTAL SPECIAL REVENUE FUNDS	4,620,278	4,646,598	4,070,418	88%	3,766,586	303,832	8%



CITY OF MORGAN HILL	75% of Year Co	mpietea					
FUND	<u> </u>		CURRENT			INCR (DECR)	
REVENUE	ADOPTED	AMENDED	YTD	%	PRIOR	FROM PRIOR	%
SOURCE	BUDGET	BUDGET	ACTUAL	OF BUDGET	YTD	YTD	CHANG
CAPITAL PROJECTS FUNDS							
301 PARK DEVELOPMENT	435,072	435,072	712,349	164%	354,626	357,723	101%
302 PARK MAINTENANCE	257,923	257,923	273,665	106%	271,713	1,952	1%
303 LOCAL DRAINAGE	291,028	291,028	178,427	61%	255,768	(77,341)	-30%
304 LOCAL DRAINAGE/NON AB1600	157,378	157,378	112,165	71%	212,127	(99,962)	-47%
305 OFF-STREET PARKING	95	95	38	40%	64	(26)	-41%
306 OPEN SPACE	57,428	57,428	140,364	244%	4,017	136,347	3394%
309 TRAFFIC MITIGATION	662,507	662,507	1,238,063	187%	377,770	860,293	228%
311 POLICE MITIGATION	51,569	51,569	86,851	168%	61,590	25,261	41%
313 FIRE MITIGATION	147,884	147,884	181,928	123%	164,799	17,129	10%
317 RDA CAPITAL PROJECTS							
Property Taxes & Supplemental Roll	14,086,573	14,086,573	9,034,195	64%	9,027,512	6,683	0%
Development Agreements			-	n/a	-	-	n/a
Interest Income, Rents			122,746	n/a	218,437	(95,691)	-44%
Other Agencies/Current Charges	9,450,000	9,450,000	164,867	<u>2%</u>	45,243	119,624	<u>264%</u>
317 RDA CAPITAL PROJECTS	23,536,573	23,536,573	9,321,808	40%	9,291,192	30,616	0%
327/328 RDA L/M HOUSING							
Property Taxes & Supplemental Roll	3,791,085	3,791,085	2,727,645	72%	2,481,170	246,475	10%
Interest Income, Rent	45,364	45,364	84,084	185%	79,697	4,387	6%
<u>Other</u>	90	90	1,123	<u>1248%</u>	719	404	<u>56%</u>
327/328 RDA L/M HOUSING	3,836,539	3,836,539	2,812,852	73%	2,561,586	251,266	10%
346 PUBLIC FACILITIES NON-AB1600	9,875,877	9,875,877	1,942,192	20%	242,853	1,699,339	700%
347 PUBLIC FACILITIES	46,900	155,861	473,454	304%	64,819	408,635	630%
348 LIBRARY	30,782	30,782	54,989	179%	31,122	23,867	77%
350 UNDERGROUNDING	31,495	31,495	48,153	153%	53,684	(5,531)	-10%
340 MORGAN HILL BUS.RANCH CIP I	1,144	1,144	455	40%	765	(310)	-41%
342 MORGAN HILL BUS.RANCH CIP II	1,282	1,282	511	40%	860	(349)	-41%
360 COMMUNITY/REC IMPACT FUND			5,573	n/a	-	5,573	n/a
TOTAL CAPITAL PROJECTS FUNDS	39,421,476	39,530,437	17,583,837	44%	13,949,355	3,634,482	26%
DEBT SERVICE FUNDS							
527 HIDDEN CREEK	_	_	_	n/a		_	n/a
533 DUNNE AVE. / CONDIT ROAD	-	<u>-</u>	_	n/a	-	-	n/a
33 BUNNE AVE. 7 CONDIT ROAD	1,631	1,631	640	39%	1,073	(433)	-40%
339 MORGAN HILL BUSINESS PARK	447	447	111	25%	1,073	(72)	-40 % -39%
542 SUTTER BUSINESS PARK	730	730	235	25% 32%	395	(160)	-39% -41%
545 COCHRANE BUSINESS PARK	119,887	119,887	109,906	92%	122,068	(12,162)	-41 <i>%</i> -10%
551 JOLEEN WAY	•	•	•	92% 51%	•	(12,162) 956	-10% 6%
331 JOLEEN WAT	34,955	34,955	17,875	3170	16,919	936	0%
TOTAL DEBT SERVICE FUNDS	157,650	157,650	128,767	82%	140,638	(11,871)	-8%



FUND REVENUE	ADOPTED	AMENDED	CURRENT YTD	%	PRIOR	INCR (DECR) FROM PRIOR	%
SOURCE	BUDGET	BUDGET	ACTUAL	OF BUDGET	YTD	YTD	CHANGE
INTERPRISE FUNDS							
40 SEWER OPERATION							
Sewer Service Fees	5,321,460	5,321,460	3,966,765	75%	3,783,950	182,815	5%
Interest Income	51,960	51,960	74,456	143%	81,265	(6,809)	-8%
Other Revenue/Current Charges	113,950	113,950	131,208	<u>115%</u>	101,677	29,531	<u>29%</u>
40 SEWER OPERATION	5,487,370	5,487,370	4,172,429	76%	3,966,892	205,537	5%
41 SEWER EXPANSION						(44.000)	.=0/
Interest Income	26,580	26,580	50,429	190%	95,109	(44,680)	-47%
Connection Fees	600,000	600,000	1,761,550	294%	459,115	1,302,435	284%
Other 641 SEWER EXPANSION	626,580	626 590	<u>594</u>	<u>n/a</u> 289%	<u>594</u>	1 257 755	n/a 227%
41 SEWER EXPANSION	020,300	626,580	1,812,573	209 /0	554,818	1,257,755	227%
42 SEWER RATE STABILIZATION	89,558 -	89,558	35,859	40%	270,921	(235,062)	-87%
43 SEWER-CAPITAL PROJECT	525,416	525,416	402,217	77%	308,274	93,943	30%
TOTAL SEWER FUNDS	6,728,924	6,728,924	6,423,078	95%	5,100,905	1,322,173	26%
S50 WATER OPERATION	E 700 0E0	E 700 0E0	4.050.005	040/	4 447 570	040.007	F 0/
Water Sales	5,738,350	5,738,350	4,659,665	81%	4,417,578	242,087	5%
Meter Install & Service	40,000	40,000	33,585	84%	34,722	(1,137)	-3%
Transfers-In, and Interest Income	1,045,785	1,045,785	812,879	78%	197,893	614,986	311%
Other Revenue/Current Charges 50 WATER OPERATION	249,584 7,073,719	249,584 7,073,719	431,269 5,937,398	<u>173%</u> 84%	258,439 4,908,632	172,830 1,028,766	67% 21%
551 WATER EXPANSION							
Interest Income/Other Revenue/Transfer	501,803	501,803	561,739	112%	244,560	317,179	130%
Water Connection Fees	160,000	160,000	333,487	<u>208%</u>	117,395	216,092	<u>184%</u>
51 WATER EXPANSION	661,803	661,803	895,226	135%	361,955	533,271	147%
52 Water Rate Stabilization	20,517	20,517	6,423	31%	13,754	(7,331)	-53%
53 Water Capital Project	402,395	402,395	557,897	139%	665,037	(107,140)	-16%
OTAL WATER FUNDS	8,158,434	8,158,434	7,396,944	91%	5,949,378	1,447,566	24%
OTAL ENTERPRISE FUNDS	14,887,358	14,887,358	13,820,022	93%	11,050,283	2,769,739	25%
NTERNAL SERVICE FUNDS							
30 INFORMATION SERVICES	245,262	245,262	183,947	75%	285,891	(101,944)	-36%
40 BUILDING MAINTENANCE SERVICES	891,042	891,042	669,734	75%	627,856	41,878	7%
45 CIP ADMINISTRATION	1,447,120	1,447,120	933,946	65%	900,220	33,726	4%
60 UNEMPLOYMENT INSURANCE	29,452	29,452	7,363	25%		7,363	n/a
70 WORKERS COMPENSATION	687,700	687,700	339,274	49%	326,538	12,736	4%
90 EQUIPMENT REPLACEMENT	198,367	268,313	195,966	73%	398,414	(202,448)	-51%
93 CORPORATION YARD COMMISSION	160,005	160,005	184,200	115%	955,809	(771,609)	-81%
95 GENERAL LIABILITY INSURANCE	389,927	389,927	288,542	74%	259,050	29,492	11%



FUND			CURRENT			INCR (DECR)	
REVENUE	ADOPTED	OPTED AMENDED YTD		%	PRIOR	FROM PRIOR	%
SOURCE	BUDGET	BUDGET	ACTUAL	OF BUDGET	YTD	YTD	CHANGE
AGENCY FUNDS							
841 M.H. BUS.RANCH A.D. I	736,175	736,175	379,755	52%	257,711	122,044	47%
842 M.H. BUS.RANCH A.D. II	37,177	37,177	36,175	97%	17,011	19,164	113%
843 M.H. BUS.RANCH 1998	883,205	883,205	417,131	47%	462,012	(44,881)	-10%
844 M.H. RANCH REFUNDING 2004A			760,459	n/a		760,459	n/a
845 MADRONE BP-TAX EXEMPT	807,439	807,439	398,045	49%	384,388	13,657	4%
846 MADRONE BP-TAXABLE	167,254	167,254	83,557	50%	121,875	(38,318)	-31%
848 TENNANT AVE.BUS.PK A.D.	39,523	39,523	63,534	161%	35,718	27,816	78%
881 POLICE DONATION TRUST FUND	245	245	202	82%	332	(130)	-39%
TOTAL AGENCY FUNDS	2,671,018	2,671,018	2,138,858	80%	1,279,047	859,811	67%
TOTAL FOR ALL FUNDS	81,880,508	82,085,735	51,249,247	62%	44,823,305	6,354,499	14%



		THIS						
FUND		MONTH						PERCENT OF
NO.	FUND/ACTIVITY	ACTUAL	ADOPTED	AMENDED	YTD	OUTSTANDING	TOTAL	TOTAL TO
		EXPENSES	BUDGET	BUDGET	EXPENSES	ENCUMBRANCE	ALLOCATED	BUDGET

010 GENERAL FUND							
I. GENERAL GOVERNMENT							
COUNCIL AND MISCELLANEOUS GOVT							
City Council	13,257	194,400	194,400	157,355	18,992	176,347	91%
Community Promotions COUNCIL AND MISCELLANEOUS GO	978 14,235	31,542 225,942	31,542 225,942	15,906 173,261	18,992	15,906 192,253	<u>50%</u> 85%
COUNCIL AND MISCELLANEOUS GO	14,233	225,542	223,342	173,201	10,992	192,233	03 /0
CITY ATTORNEY	48,390	615,917	615,917	402,607	113,367	515,974	<u>84%</u>
CITY MANAGER							
City Manager	27,850	391,162	391,162	266,318	-	266,318	68%
Cable Television	13,033	45,236	46,986	36,025	7,370	43,395	92%
Communications & Marketing	5,781	106,576	111,834	68,663	10,818	79,481	<u>71%</u>
CITY MANAGER	46,664	542,974	549,982	371,006	18,188	389,194	71%
RECREATION							
Recreation	33,055	455,503	463,468	341,326	46,200	387,526	84%
Community & Cultural Center	34,132	739,223	766,023	378,914	111,178	490,092	64%
Aquatics Center	12,498	273,890	354,890	27,959		27,959	8%
Building Maintenance (CCC)	42,348	416,108	427,967	368,031	37,632	405,663	<u>95%</u>
RECREATION	122,033	1,884,724	2,012,348	1,116,230	195,010	1,311,240	65%
HUMAN RESOURCES							
Human Resources	36,359	582,687	582,687	399,943		399,943	69%
Volunteer Programs	1,644	34,442	34,442	16,659	<u> </u>	16,659	<u>48%</u>
HUMAN RESOURCES	38,003	617,129	617,129	416,602		416,602	68%
CITY CLERK							
City Clerk	18,526	302,672	303,533	171,689	861	172,550	57%
Elections	3,068	70,576	70,576	28,679	-	28,679	41%
CITY CLERK	21,594	373,248	374,109	200,368	861	201,229	54%
FINANCE	73,380	889,208	891,223	666,106	1,219	667,325	75%
MEDICAL SERVICES	-		5,000		-	-	n/a
TOTAL GENERAL GOVERNMENT	364,299	5,149,142	5,291,650	3,346,180	347,637	3,693,817	70%
II. PUBLIC SAFETY							
POLICE DD Administration	07.000	464 74:	404 744	050 040		054.705	700/
PD Administration	37,926	491,711	491,711	353,316	1,449	354,765	72%
Patrol	246,031	3,207,070	3,274,188	2,182,371	27,786	2,210,157	68%
Support Services Emergency Services/Haz Mat	64,887 9,102	897,092 33,858	897,092 33,858	608,973	2,580 8,026	611,553 54,084	68% 160%
Special Operations	71,439	1,176,399	1,179,974	46,058 753,041	1,387	754,428	64%
Animal Control	5,006	76,159	76,159	53,953	1,307	53,953	71%
Dispatch Services	58,982	858,218	859,318	543,178	1,100	544,278	63%
POLICE	493,373	6,740,507	6,812,300	4,540,890	42,328	4,583,218	67%
FIRE	312,081	3,745,220	3,745,220	2,808,733	-	2,808,733	75%
TOTAL PUBLIC SAFETY	805,454	10,485,727	10,557,520	7,349,623	42,328	7,391,951	70%
TOTAL TODLIO DAI LIT	003,434	10,705,727	10,551,520	1,043,023	72,320	7,001,001	10/0
III. COMMUNITY IMPROVEMENT							
	46.55	040.000	000 0 10	470	~~	40 : 5 : 5	0631
PARK MAINTENANCE	48,621	810,323	822,840	470,835	23,410	494,245	60%
TOTAL COMMUNITY IMPROVEMENT	48,621	810,323	822,840	470,835	23,410	494,245	60%



FUND		THIS						DEDOENT OF
FUND NO.	FUND/ACTIVITY	MONTH ACTUAL	ADOPTED	AMENDED	YTD	OUTSTANDING	TOTAL	PERCENT OF TOTAL TO
NO.	FUNDIACTIVITY	EXPENSES	BUDGET	BUDGET	EXPENSES	ENCUMBRANCE	_	BUDGET
						_		
N/ TD4	NOTERO							
IV. IKA	NSFERS							
	Public Safety			834		-	-	n/a
	•					-	-	n/a
						-	-	<u>n/a</u>
то	TAL TRANSFERS		_	834		-		n/a
	THE HUMOF ENG			30-1				111/4
TOTAL O	GENERAL FUND	1,218,374	16,445,192	16,672,844	11,166,638	413,375	11,580,013	69%
SPECIAL	REVENUE FUNDS							
202 STR	EET MAINTENANCE Street Maintenance/Traffic	124 906	1 500 700	1 672 020	077 720	170.070	1 147 000	69%
	Street Maintenance/Traffic Congestion Management	124,806 3,585	1,533,793 78,868	1,672,928 78,868	977,739 43,382	170,070	1,147,809 43,382	55%
	Street CIP	15,855	514,800	1.136.206	536,095	217.584	753.679	66%
202 STR	EET MAINTENANCE	144,246	2,127,461	2,888,002	1,557,216	387,654	1,944,870	67%
204/205	PUBLIC SAFETY/SUPP.LAW	22,799	273,582	273,582	205,186		205,186	75%
206 CO	MMUNITY DEVELOPMENT FUND							
-00 001	Planning	170,647	979,437	1,224,253	889,854	239,697	1,129,551	92%
	Building	64,138	956,070	1,016,487	589,898	51,731	641,629	63%
	PW-Engineering	76,293	1,029,375	1,072,275	657.981	83,569	741,550	<u>69%</u>
06 CO	MMUNITY DEVELOPMENT FUND	311,078	2,964,882	3,313,015	2,137,733	374,997	2,512,730	76%
		4.000		40= 440	40.004		440.000	
207	GENERAL PLAN UPDATE	1,806	71,257	197,413	49,831	93,405	143,236	73%
10	COMMUNITY CENTER	26,000	312,000	312,000	234,000		234,000	75%
15/216	CDBG	6,395	195,769	463,742	98,366	93,768	192,134	41%
20 25	MUSEUM RENTAL ASSET SEIZURE	372	2,422	2,422	1,673	-	1,673	69% n/a
29	LIGHTING AND LANDSCAPE	7,815	154,755	167 001	114,442	24,934	139,376	83%
32	ENVIRONMENT PROGRAMS	42,208	452,029	167,001 499,894	272,475	79,938	352,413	70%
:34	MOBILE HOME PARK	17,040	39,661	89,661	90,791	22,153	112,944	126%
235	SENIOR HOUSING TRUST FUN	17,040	14,300	14,300	4,300	4,300	8,600	60%
236	HOUSING MITIGATION FUND	_	1,033,497	1,033,497	8,489	6,511	15,000	1%
240	EMPLOYEE ASSISTANCE	-	20,000	20,000	15,058	-	15,058	75%
				,	,		,	
OTAL S	SPECIAL REVENUE FUNDS	579,759	7,661,615	9,274,529	4,789,560	1,087,660	5,877,220	63%
CAPITAL	PROJECT FUNDS							
801	PARK DEVELOPMENT	9,319	1,570,296	2,114,454	270,766	191,622	462,388	22%
02	PARK MAINTENANCE	50,000	200,000	200,000	150,000	131,022	150,000	75%
803	LOCAL DRAINAGE	143	2,028,393	2,365,774	9,130	-	9,130	0%
04	LOCAL DRAIN. NON-AB1600	25,956	191,868	218,868	85,992	16,097	102,089	47%
05	OFF STREET PARKING	4,058	3,986	3,986	4,058	10,037	4,058	102%
09	TRAFFIC MITIGATION	33,624	936,333	2,035,819	513,303	557,725	1,071,028	53%
11	POLICE MITIGATION	554	1,206,645	1,226,645	23,918	10,000	33,918	3%
13	FIRE MITIGATION	362	401,545	551,545	519,863	9,101	528,964	96%
17	RDA BUSINESS ASSISTANCE	2,897,378	27,346,151	40,862,203	20,921,542	8,253,189	29,174,731	71%
27/328	RDA HOUSING	190,930	4,592,332	9,438,767	4,270,824	67,480	4,338,304	46%
46	PUBLIC FAC.NON AB1600	515,055	9,808,000	9,846,656	905,859	1,791,106	2,696,965	27%
47	PUBLIC FACILITIES	9,556	831,229	958,621	145,184	826,775	971,959	101%
48	LIBRARY IMPACT	19	225	225	169	,	169	75%
50	UNDERGROUNDING	28,055	190,437	190,437	126,901	96,935	223,836	118%
TOTAL C	CARITAL DEGLECTS FUNDS	2 705 000	40 207 442	70.044.000	27.047.500	44.000.000	20 707 520	E 7 0/
OTAL C	CAPITAL PROJECTS FUNDS	3,765,009	49,307,440	70,014,000	27,947,509	11,820,030	39,767,539	57%



NO. FUNDIACTIVITY		or in or interest in the		13/0 UI I eai	Completed				
DEST SERVICE FUNDS 527 HIDDEN CREEK A.D.		FUND/ACTIVITY	MONTH ACTUAL					_	
HIDDEN CREEK A.D.	DEDT 0		EXI ENGES	202021	202021	EXI ENGLO		/ 1220 0 / 1125	1 202021
SSS MCROAN HILL BUS PARK AD	DEBT SI	ERVICE FUNDS							
MORGAN HILL BUS, PARK A.D. - - - - - - - - -	527		-	-	-	-	-	-	
SEVER PRIVATE BUS. PARK AD. 6.28 195.805 195.805 195.3	536		-	-	-	-	-	-	n/a
545 COCHRANE BUS, PARK A.D. 628 195,805 195,805 193,324 - 193,224 99% 5551 JOLEEN WAY A.D. 6,628 40,540 40,540 39,100 - 39,100 96% 195,551 JOLEEN WAY A.D. 6,628 40,540 40,540 39,100 - 39,100 96% 195,551 JOLEEN WAY A.D. 6,628 40,540 40,540 39,100 - 39,100 96% 195,551 JOLEEN WAY A.D. 6,628 40,540 40,540 39,100 - 39,100 96% 195,551 JOLEEN WAY A.D. 6,628 40,540 40,540 195,540	539		-	-	-	-	-	-	
TOTAL DEBT SERVICE FUNDS T, 256 236,345 236,345 232,424 - 232,424 98% ENTERPRISE FUNDS SEWER SEWER OPERATION SEWER OPERATION 213,884 7,418,125 7,513,797 5,847,344 82,526 5,729,870 76% 540 SEWER OPERATION 306,539 3,576,249 3,897,697 580,118 38,474 615,592 177 76% 542 SEWER RATE STABILIZATION 197 2,369 2,209 4,145,124 38,1157 4,256,585 7,253,398 577 FOTAL SEWER FUND(S) 546,840 11,434,588 12,829,885 6,702,842 552,656 7,253,398 577 MATER Water Operations Division 257,383 6,213,247 6,894,997 4,145,124 381,157 4,526,281 66% Mater Reading/Repair 31,027 507,165 508,338 302,314 235,255 539,839 81% Utility Billing 25,222 391,157 394,863 302,314 235,255 539,839 81% SEWER OPERATIONS 314,434 7,256,168 7,265,388 577 885 WATER ATER STABILIZATION 1012 6,213 6,214 6,214 6,214 6,2			-	-	-	-	-	-	
SEWER PARTICIPATION 213,884 7,418,125 7,513,797 5,647,344 82,526 5,729,870 76% 840 SEWER OPERATION 306,539 3,576,249 3,697,697 5,647,344 82,526 5,729,870 76% 841 CAPITAL EXPANSION 306,539 3,576,249 3,697,697 50,118 35,474 615,592 17% 842 SEWER RATE STABILIZATION 197 2,2698 2,2598 11,777 35,474 615,592 17% 843 SEWER RATE STABILIZATION 197 2,2698 2,2598 11,777 35,474 615,592 17% 843 SEWER CAPITAL PROJECTS 26,220 437,843 1,616,022 473,603 434,556 999,199 55% 10TAL SEWER FUND(S) 546,840 11,434,598 12,622,895 6,702,842 552,556 7,255,398 57% 10TAL SEWER FUND(S) 546,840 11,434,598 12,622,895 6,702,842 552,556 7,255,398 77% 10TAL SEWER FUND(S) 257,393 6,231,427 6,894,997 4,145,124 381,157 4,526,281 66% MATER Water Conservation 257,222 991,570 394,693 202,314 237,525 539,839 81% 1048 1048 1048 1048 1048 1048 1048 1048	545 551			•	-		-	•	
SEWER BAD SEWER OPERATION 213,884 7,418,125 7,513,797 5,647,344 82,526 5,729,870 76% 614 CAPITAL EXPANSION 306,539 3,576,249 3,697,697 580,118 35,474 615,592 17% 614 SEWER CAPITAL PROJECTS 26,220 437,843 1,615,022 473,803 434,555 99,81,59 567% 614 615,792 1777 75% 614 514 614 614 614 614 614 614 614 614 614 6	TOTAL I	DEBT SERVICE FUNDS	7,256	236,345	236,345	232,424	-	232,424	98%
SEWER BAD SEWER OPERATION 213,884 7,418,125 7,513,797 5,647,344 82,526 5,729,870 76% 614 CAPITAL EXPANSION 306,539 3,576,249 3,697,697 580,118 35,474 615,592 17% 614 SEWER CAPITAL PROJECTS 26,220 437,843 1,615,022 473,803 434,555 99,81,59 567% 614 615,792 1777 75% 614 514 614 614 614 614 614 614 614 614 614 6									
SEWER OPERATION 213,884 7,418,125 7,513,797 5,647,344 82,526 5,728,870 76% 615,592 17% 615	ENTERP	PRISE FUNDS							
841 CAPITAL EXPANSION 306,539 3,576,249 3,697,697 580,118 35,474 615,592 17% 612 SEWER RATE STABILIZATION 197 2,369 2,269 1,777 1,777 75% 613 SEWER-CAPITAL PROJECTS 26,220 437,843 1,816,022 473,603 434,556 908,159 56% 101AL SEWER FUND(S) 546,840 11,434,586 12,829,885 6,702,842 582,596 7,285,398 57% NATER Water Operations Division 257,383 6,213,247 6,894,997 4,145,124 381,157 4,526,281 66% Meter Reading/Repair 31,027 637,156 669,538 302,314 237,525 539,839 81% Utility Billing 25,922 391,570 391,570 394,683 302,314 237,525 539,839 81% Utility Billing 25,922 391,570 391,570 394,683 262,904 12,088 274,992 70% Water Conservation 102 8,213 8,213 919 - 919 11% 650,000 Water Operations 116,096 1,546,253 2,652,299 916,817 549,727 1,466,544 55% 650 WATER OPERATIONS 314,434 72,501,86 7,967,611 4,711,661 630,770 5,342,031 67% 655 WATER CAPITAL EXPANSION 116,096 1,546,253 2,652,299 916,817 549,727 1,466,544 55% 650 WATER CAPITAL EXPANSION 176,078 850,551 635,514 630,551 637,913 - 637,913 - 537,913 75% 653 WATER CAPITAL PROJECTS 15,388 2,158,239 2,991,478 690,935 768,645 1,459,580 49% 10TAL WATER FUND(S) 516,797 11,805,229 14,421,339 6,956,926 1,949,142 8,906,668 62% 10TAL EXPANSION 10,63,637 23,239,815 27,251,824 13,659,768 2,501,698 16,161,466 59% 10TAL EXPANSION 10,793 1,447,120 1,522,606 93,382 596,424 1,030,249 66% 1074 CV PROJECTS 10,600 1	SEWER								
SEWER RATE STABILIZATION 197 2,369 2,369 1,777 75% A3 SEWER-CAPITAL PROJECTS 26,220 437,843 1,616,022 473,603 434,556 908,159 55% FOTAL SEWER FUND(S) 546,840 11,434,586 12,829,885 6,702,842 582,556 7,255,398 57% WATER Water Operations Division 257,383 6,213,247 6,894,997 4,145,124 381,157 4,526,281 66% Meter Reading/Repair 31,027 637,156 669,533 302,314 237,525 539,839 81% Utility Billing 25,922 391,570 394,863 262,904 12,088 274,992 70% Water Conservation 102 8,213 8,213 919 - 919 11% S50 WATER OPERATIONS 314,434 7,250,186 7,967,611 4,711,261 630,770 5,342,031 67% S51 CAPITAL EXPANSION 116,096 1,346,253 2,652,299 918,817 549,727 1,466,544 55% S52 WATER RATE STABILIZATION 70,879 850,551 850,551 637,913 - 637,913 75% S53 WATER CAPITAL PROJECTS 15,388 2,158,239 2,951,478 690,935 768,645 1,494,142 8,906,668 62% FOTAL EXPANSION 11,663,637 23,239,815 27,251,824 13,659,768 2,501,698 16,161,466 59% INTERNAL SERVICE FUNDS NTERNAL SERVICE FUNDS TOTAL WATER FUND(S) 15,636,637 23,239,815 27,251,824 13,659,768 2,501,698 16,161,466 59% INFORMATION SERVICES 742 245,262 262,996 142,022 76,752 218,774 83%,7660 UNEMPLOYMENT - 30,000 30,000 28,318 - 28,318 94%,770 WORKERS COMPENSATION 45,156 697,200 736,200 546,133 28,950 593,088 81%,770 WORKERS COMPENSATION 45,156 697,200 736,200 564,133 28,950 593,088 81%,770 WORKERS COMPENSATION 45,156 697,200 736,200 564,133 28,950 593,088 81%,770 WORKERS COMPENSATION 45,156 697,200 736,200 564,133 28,950 593,088 81%,770 WORKERS COMPENSATION 45,156 697,200 736,200 564,133 28,950 593,088 81%,770 WORKERS COMPENSATION 45,156 697,200 736,200 564,133 28,950 593,088 81%,770 WORKERS COMPENSATION 45,156 697,200 736,200 564,133 28,950 593,088 81%,770 WORKERS COMPENSATION 45,156 697,200 736,200 564,133 28,950 593,088 81%,770 WORKERS COMPENSATION 45,156 697,200 736,200 564,133 28,950 593,088 81%,770 WORKERS COMPENSATION 45,156 697,200 736,200 564,331 20,564 251,882 97%,770 WORKERS COMPENSATION 45,156 697,200 736,200 564,331 20,564 251,882 97%,770 WORKERS COMPENSATION 45,156 697,200 737,800 371,6	640	SEWER OPERATION	213,884	7,418,125	7,513,797	5,647,344	82,526	5,729,870	
A3 SEWER-CAPITAL PROJECTS	641		•			•	35,474	•	
TOTAL SEWER FUND(S) S46,840	642			•	•	,		•	
Water Operations Division 257,383 6,213,247 6,894,997 4,145,124 381,157 4,526,281 66% Meter Reading/Repair 31,027 637,156 669,533 302,314 237,525 539,639 61% 66% Mater Conservation 102 8,213 8,213 919 919 11½ 11½ 12½	643		26,220	437,843	1,616,022	473,603			<u>56%</u>
Water Operations Division	TOTAL S	SEWER FUND(S)	546,840	11,434,586	12,829,885	6,702,842	552,556	7,255,398	57%
Meter Reading/Repair 31.027 637,156 669,538 302,314 237,525 539,839 81% 259,922 391,570 394,863 262,904 12,088 274,902 70% 70%	WATER								
Utility Billing Water Conservation 102 8.213 8.213 919 919 119 119 119 119 119 119 119 1		•	,				,	, ,	
Water Conservation 102 8.213 8.213 919 - 919 11% 850 WATER OPERATIONS 314,434 7.250,186 7.967,611 4,711,261 630,770 5,342,031 67% 851 CAPITAL EXPANSION 116,096 1.546,233 2,652,299 916,817 549,727 1,466,544 55% 852 WATER RATE STABILIZATION 70,879 850,551 850,551 637,913 - 637,913 75% 853 WATER CAPITAL PROJECTS 15,388 2,158,239 2,951,478 690,935 768,665 1,499,142 8,906,068 62% TOTAL ENTERPRISE FUNDS 1,063,637 23,239,815 27,251,824 13,659,768 2,501,698 16,161,466 59% TOTAL ENTERPRISE FUNDS 1,063,637 23,239,815 27,251,824 13,659,768 2,501,698 16,161,466 59% TOTAL ENTERPRISE FUNDS 1,063,637 23,239,815 27,251,824 13,659,768 2,501,698 16,161,466 59% TOTAL ENTER		3 .				,	,		
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### SECUPLE NUMBER OF COMPENSATION ### SECUPLE SECUPLE NUMBER OF COMPENSATION ### SECU	650		•				•		
### RESS WATER-CAPITAL PROJECTS 15.388 2.158.239 2.951.478 699.935 768.645 1.459.580 49% ### TOTAL WATER FUND(S) 516,797 11,805,229 14,421,939 6,956,926 1,949,142 8,906,068 62% ### TOTAL ENTERPRISE FUNDS 1,063,637 23,239,815 27,251,824 13,659,768 2,501,698 16,161,466 59% ### TOTAL ENTERPRISE FUNDS 1,063,637 23,239,815 27,251,824 13,659,768 2,501,698 16,161,466 59% ### TOTAL ENTERPRISE FUNDS 1,063,637 23,239,815 27,251,824 13,659,768 2,501,698 16,161,466 59% ### TOTAL ENTERPRISE FUNDS 1,063,637 23,239,815 27,251,824 13,659,768 2,501,698 16,161,466 59% ### TOTAL ENTERPRISE FUNDS 1,063,637 23,239,815 27,251,824 13,659,768 2,501,698 16,161,466 59% ### TOTAL ENTERPRISE FUNDS 1,063,637 245,262 262,996 142,022 76,752 218,774 83% ### TOTAL ENTERPRISE FUNDS 1,063,637 245,262 262,996 142,022 76,752 218,774 83% ### TOTAL ENTERPRISE FUNDS 1,063,637 245,262 262,996 142,022 76,752 218,774 83% ### TOTAL ENTERPRISE FUNDS 1,063,637 245,262 262,996 142,022 76,752 218,774 83% ### TOTAL ENTERPRISE FUNDS 1,063,637 1,063,031 1,063,031 1,063,031 1,063,031 1,063,031 1,063,031 1,063,031 1,064	651		•			•	549,727		
TOTAL WATER FUND(S) 516,797 11,805,229 14,421,939 6,956,926 1,949,142 8,906,068 62% TOTAL ENTERPRISE FUNDS 1,063,637 23,239,815 27,251,824 13,659,768 2,501,698 16,161,466 59% NTERNAL SERVICE FUNDS 730 INFORMATION SERVICES 742 245,262 262,996 142,022 76,752 218,774 83% 740 BUILDING MAINTENANCE 40,242 642,029 665,031 302,713 27,968 330,681 50% 745 CIP ENGINEERING 107,793 1,447,120 1,552,806 933,825 96,424 1,030,249 66%,700 UNEMPLOYMENT - 30,000 30,000 28,318 - 28,318 94% 770 WORKERS COMPENSATION 45,156 697,200 736,200 564,138 28,950 593,088 81% 793 CORP YARD COMMISSION 91,364 160,005 170,920 152,454 67,632 220,086 129% 685,031 371,600 371,600 371,600 367,809 - 367,809 99% TOTAL INTERNAL SERVICE FUNDS 332,469 3,844,977 4,050,431 2,534,597 506,290 3,040,887 75% AGENCY FUNDS 341 MORGAN HILL BUS RANCH II 628 38,838 38,838 140,609 - 140,609 362% 843 MORGAN HILL BUS RANCH III 628 38,838 38,838 140,609 - 140,609 362% 844 MORGAN HILL BUS RANCH III 628 38,838 38,838 140,609 - 140,609 362% 844 MORGAN HILL BUS RANCH III 628 38,838 38,838 140,609 - 140,609 362% 844 MORGAN HILL BUS RANCH III 628 38,838 38,838 140,609 - 140,609 362% 844 MORGAN HILL BUS RANCH III 628 79,731 799,	652		•	-	•	•	-	•	
TOTAL ENTERPRISE FUNDS 1,063,637 23,239,815 27,251,824 13,659,768 2,501,698 16,161,466 59% INTERNAL SERVICE FUNDS 730 INFORMATION SERVICES 742 245,262 262,996 142,022 76,752 218,774 83% 740 BUILDING MAINTENANCE 40,242 642,029 665,031 302,713 27,968 330,681 50% 745 CIP ENGINEERING 107,793 1,447,120 1,552,806 933,825 96,424 1,030,249 66% 760 UNEMPLOYMENT - 30,000 30,000 28,318 28,950 593,088 81% 760 UNEMPLOYMENT 147 251,761 260,878 43,318 20,550 593,088 81% 790 EQUIPMENT REPLACEMENT 147 251,761 260,878 43,318 20,564 251,882 97% 793 CORP YARD COMMISSION 91,364 160,005 170,920 152,454 67,632 220,086 129% 795 GEN. LIABILITY INSURANCE 47,025 371,600 371,600 367,809 - 367,809 99% TOTAL INTERNAL SERVICE FUNDS 332,469 3,844,977 4,050,431 2,534,597 506,290 3,040,887 75% AGENCY FUNDS 841 MORGAN HILL BUS RANCH I 628 723,706 723,706 2,008,978 - 2,008,978 278% 842 MORGAN HILL BUS RANCH II 628 38,838 38,838 140,609 - 140,609 362% 843 MORGAN HILL BUS RANCH II 628 371,086 871,086 871,086 871,396 - 871,396 100% 844 MH RANCH RSMIT 2004A 589,424 - 589,424 n/a 845 MADRONE BP-TAX EXEMPT 628 799,731 799,731 806,946 - 806,946 101% 846 MADRONE BP-TAX EXEMPT 628 799,731 799,731 806,946 - 806,946 101% 848 TENNANT AVE BUS PARK AD n/a 849 POLICE DONATION TRUST n/a 840 TOTAL AGENCY FUNDS 3,140 2,605,704 4,587,661 - 4,587,661 176%	653 TOTAL \								
INTERNAL SERVICE FUNDS 730 INFORMATION SERVICES 742 245,262 262,996 142,022 76,752 218,774 83%,740 BUILDING MAINTENANCE 40,242 642,029 665,031 302,713 27,968 330,681 50%,745 CIP ENGINEERING 107,793 1,447,120 1,552,806 933,825 96,424 1,030,249 66%,760 UNEMPLOYMENT - 30,000 30,000 28,318 - 28,318 94%,770 WORKERS COMPENSATION 45,156 697,200 736,200 564,138 28,950 593,088 81%,790 EQUIPMENT REPLACEMENT 147 251,761 260,878 43,318 208,564 251,882 97%,793 CORP YARD COMMISSION 91,364 160,005 170,920 152,454 67,632 220,086 129%,795 GEN. LIABILITY INSURANCE 47,025 371,600 371,600 367,809 - 367,809 99% TOTAL INTERNAL SERVICE FUNDS 332,469 3,844,977 4,050,431 2,534,597 506,290 3,040,887 75% AGENCY FUNDS 841 MORGAN HILL BUS RANCH II 628 723,706 723,706 2,008,978 - 2,008,978 278%,842 MORGAN HILL BUS RANCH II 628 38,838 38,838 140,609 - 140,609 362%,843 MORGAN HILL BUS RANCH 98 628 871,086 871,086 871,396 - 871,396 100%,844 HR ANCH RSMIT 2004A 5845 MADRONE BP-TAX EXEMPT 628 799,731 799,731 806,946 - 806,946 101%,846 MADRONE BP-TAX EXEMPT 628 799,731 799,731 806,946 - 806,946 101%,848 TENNANT AVE BUS PARK AD n/a ATOTAL AGENCY FUNDS 3,140 2,605,704 2,605,704 4,587,661 - 4,587,661 176%		` ,							
Total Internal Services T42 245,262 262,996 142,022 76,752 218,774 83% 740 Building Maintenance 40,242 642,029 665,031 302,713 27,968 330,681 50% 745 CIP Engineering 107,793 1,447,120 1,552,806 933,825 96,424 1,030,249 66% 760 Unemployment - 30,000 30,000 28,318 - 28,318 94% 770 Workers Compensation 45,156 697,200 736,200 564,138 28,950 593,088 81% 790 Equipment Replacement 147 251,761 260,878 43,318 208,564 251,882 97% 793 CORP YARD COMMISSION 91,364 160,005 170,920 152,454 67,632 220,086 129% 795 Gen. Liability Insurance 47,025 371,600 371,600 367,809 - 367,809 99% TOTAL INTERNAL SERVICE FUNDS 332,469 3,844,977 4,050,431 2,534,597 506,290 3,040,887 75% AGENCY FUNDS 362 Morgan Hill Bus Ranch 628 723,706 723,706 2,008,978 - 2,008,978 278% 3843 Morgan Hill Bus Ranch 628 38,838 38,838 140,609 - 140,609 362% 363 Morgan Hill Bus Ranch 628 871,086 871,086 871,396 - 8	IOIAL	ENTERPRISE FUNDS	1,063,637	23,239,815	27,251,824	13,659,768	2,501,698	16,161,466	59%
Reserve	INTERN	AL SERVICE FUNDS							
Reserve	700	INFORMATION OFFINIOFO	740	0.45.000	000 000	440.000	70.750	040 774	000/
TOTAL INTERNAL SERVICE FUNDS 107,793 1,447,120 1,552,806 933,825 96,424 1,030,249 66% 980,000 1,000 30,000 28,318 - 28,318 94% 980,000 1,000 30,000 28,318 - 28,318 94% 980,000 1,0				-	-	•	•	•	
			•	-	•	•	•	•	
WORKERS COMPENSATION 45,156 697,200 736,200 564,138 28,950 593,088 81% 790 EQUIPMENT REPLACEMENT 147 251,761 260,878 43,318 208,564 251,882 97% 795 CORP YARD COMMISSION 91,364 160,005 170,920 152,454 67,632 220,086 129% 795 GEN. LIABILITY INSURANCE 47,025 371,600 371,600 367,809 - 367,809 99% TOTAL INTERNAL SERVICE FUNDS 332,469 3,844,977 4,050,431 2,534,597 506,290 3,040,887 75% AGENCY FUNDS			-				-		
FOR EQUIPMENT REPLACEMENT 147 251,761 260,878 43,318 200,564 251,882 97% 793 CORP YARD COMMISSION 91,364 160,005 170,920 152,454 67,632 220,086 129% 795 GEN. LIABILITY INSURANCE 47,025 371,600 371,600 367,809 - 367,809 99% TOTAL INTERNAL SERVICE FUNDS 332,469 3,844,977 4,050,431 2,534,597 506,290 3,040,887 75% AGENCY FUNDS 841 MORGAN HILL BUS RANCH I 628 723,706 723,706 2,008,978 - 2,008,978 278% 842 MORGAN HILL BUS RANCH II 628 38,838 38,838 140,609 - 140,609 362% 843 MORGAN HILL BUS RANCH 98 628 871,086 871,086 871,396 - 871,396 100% 844 MH RANCH RSMNT 2004A 589,424 - 589,424 n/a 845 MADRONE BP-TAX EXEMPT 628 799,731 799,731 806,946 - 806,946 101% 846 MADRONE BP-TAX EXEMPT 628 172,343 172,343 170,308 - 170,308 99% 848 TENNANT AVE BUS PARK AD n/a 881 POLICE DONATION TRUST n/a TOTAL AGENCY FUNDS 3,140 2,605,704 2,605,704 4,587,661 - 4,587,661 176%									
CORP YARD COMMISSION 91,364 160,005 170,920 152,454 67,632 220,086 129% GEN. LIABILITY INSURANCE 47,025 371,600 371,600 367,809 - 367,809 99% TOTAL INTERNAL SERVICE FUNDS 332,469 3,844,977 4,050,431 2,534,597 506,290 3,040,887 75% AGENCY FUNDS 841 MORGAN HILL BUS RANCH I 628 723,706 723,706 2,008,978 - 2,008,978 278% 842 MORGAN HILL BUS RANCH II 628 38,838 38,838 140,609 - 140,609 362% 843 MORGAN HILL BUS RANCH 98 628 871,086 871,396 - 871,396 100% 844 MH RANCH RSMNT 2004A 589,424 - 589,424 n/a 589,424 n/a 5845 MADRONE BP-TAX EXEMPT 628 799,731 799,731 806,946 - 806,946 101% 846 MADRONE BP-TAXABLE 628 172,343 172,343 170,308 - 170,308 99% 848 TENNANT AVE BUS PARK AD n/a 881 POLICE DONATION TRUST n/a 70,701 176%									
795 GEN. LIABILITY INSURANCE 47,025 371,600 371,600 367,809 - 367,809 99% TOTAL INTERNAL SERVICE FUNDS 332,469 3,844,977 4,050,431 2,534,597 506,290 3,040,887 75% AGENCY FUNDS 841 MORGAN HILL BUS RANCH I 628 723,706 723,706 2,008,978 - 2,008,978 278% 842 MORGAN HILL BUS RANCH II 628 38,838 38,838 140,609 - 140,609 362% 843 MORGAN HILL BUS RANCH 98 628 871,086 871,086 871,396 - 871,396 100% 844 MH RANCH RSMNT 2004A 589,424 - 589,424 n/a 845 MADRONE BP-TAX EXEMPT 628 799,731 799,731 806,946 - 806,946 101% 846 MADRONE BP-TAXABLE 628 172,343 172,343 170,308 - 170,308 99% 847 TENNANT AVE BUS PARK AD n/a 848 TENNANT AVE BUS PARK AD n/a 849 POLICE DONATION TRUST n/a 840 TOTAL AGENCY FUNDS 3,140 2,605,704 2,605,704 4,587,661 - 4,587,661 176%						•	•	•	
AGENCY FUNDS 841 MORGAN HILL BUS RANCH I 628 723,706 723,706 2,008,978 - 2,008,978 278% 842 MORGAN HILL BUS RANCH II 628 38,838 38,838 140,609 - 140,609 362% 843 MORGAN HILL BUS RANCH 98 628 871,086 871,086 871,396 - 871,396 100% 844 MH RANCH RSMNT 2004A 589,424 - 589,424 n/a 845 MADRONE BP-TAX EXEMPT 628 799,731 799,731 806,946 - 806,946 101% 846 MADRONE BP-TAXABLE 628 172,343 172,343 170,308 - 170,308 99% 848 TENNANT AVE BUS PARK AD n/a 881 POLICE DONATION TRUST n/a TOTAL AGENCY FUNDS 3,140 2,605,704 2,605,704 4,587,661 - 4,587,661 176%	795		-	-	•	•	-	•	
841 MORGAN HILL BUS RANCH I 628 723,706 723,706 2,008,978 - 2,008,978 278% 842 MORGAN HILL BUS RANCH II 628 38,838 38,838 140,609 - 140,609 362% 843 MORGAN HILL BUS RANCH 98 628 871,086 871,086 871,396 - 871,396 100% 844 MH RANCH RSMNT 2004A 589,424 - 589,424 n/a 845 MADRONE BP-TAX EXEMPT 628 799,731 799,731 806,946 - 806,946 101% 846 MADRONE BP-TAXABLE 628 172,343 172,343 170,308 - 170,308 99% 848 TENNANT AVE BUS PARK AD n/a 881 POLICE DONATION TRUST n/a 170,408 TOTAL AGENCY FUNDS 3,140 2,605,704 2,605,704 4,587,661 - 4,587,661 176%	TOTAL I	INTERNAL SERVICE FUNDS	332,469	3,844,977	4,050,431	2,534,597	506,290	3,040,887	75%
842 MORGAN HILL BUS RANCH II 628 38,838 38,838 140,609 - 140,609 362% 843 MORGAN HILL BUS RANCH 98 628 871,086 871,086 871,396 - 871,396 100% 844 MH RANCH RSMNT 2004A 589,424 - 589,424 n/a 845 MADRONE BP-TAX EXEMPT 628 799,731 799,731 806,946 - 806,946 101% 846 MADRONE BP-TAXABLE 628 172,343 172,343 170,308 - 170,308 99% 848 TENNANT AVE BUS PARK AD - - - - - - n/a 881 POLICE DONATION TRUST - - - - - - n/a TOTAL AGENCY FUNDS 3,140 2,605,704 2,605,704 4,587,661 - 4,587,661 176%	AGENCY	Y FUNDS							
842 MORGAN HILL BUS RANCH II 628 38,838 38,838 140,609 - 140,609 362% 843 MORGAN HILL BUS RANCH 98 628 871,086 871,086 871,396 - 871,396 100% 844 MH RANCH RSMNT 2004A 589,424 - 589,424 n/a 845 MADRONE BP-TAX EXEMPT 628 799,731 799,731 806,946 - 806,946 101% 846 MADRONE BP-TAXABLE 628 172,343 172,343 170,308 - 170,308 99% 848 TENNANT AVE BUS PARK AD - - - - - - n/a 881 POLICE DONATION TRUST - - - - - - n/a TOTAL AGENCY FUNDS 3,140 2,605,704 2,605,704 4,587,661 - 4,587,661 176%	044	MODOAN IIII I BUO BANCIII	000	700 700	700 700	0.000.070		0.000.070	0700/
843 MORGAN HILL BUS RANCH 98 628 871,086 871,086 871,396 - 871,396 100% 844 MH RANCH RSMNT 2004A 589,424 - 589,424 n/a 845 MADRONE BP-TAX EXEMPT 628 799,731 799,731 806,946 - 806,946 101% 846 MADRONE BP-TAXABLE 628 172,343 172,343 170,308 - 170,308 99% 848 TENNANT AVE BUS PARK AD n/a 881 POLICE DONATION TRUST n/a 170,740 TOTAL AGENCY FUNDS 3,140 2,605,704 2,605,704 4,587,661 - 4,587,661 176%					-		-		
844 MH RANCH RSMNT 2004A 589,424 - 589,424 n/a 845 MADRONE BP-TAX EXEMPT 628 799,731 799,731 806,946 - 806,946 101% 846 MADRONE BP-TAXABLE 628 172,343 172,343 170,308 - 170,308 99% 848 TENNANT AVE BUS PARK AD - - - - - - n/a 881 POLICE DONATION TRUST - - - - - n/a TOTAL AGENCY FUNDS 3,140 2,605,704 2,605,704 4,587,661 - 4,587,661 176%				•	-	.,	-	•	
845 MADRONE BP-TAX EXEMPT 628 799,731 799,731 806,946 - 806,946 101% 846 MADRONE BP-TAXABLE 628 172,343 172,343 170,308 - 170,308 99% 848 TENNANT AVE BUS PARK AD - - - - - - n/a 881 POLICE DONATION TRUST - - - - - n/a TOTAL AGENCY FUNDS 3,140 2,605,704 2,605,704 4,587,661 - 4,587,661 176%			628	871,086	871,086		-	•	
846 MADRONE BP-TAXABLE 628 172,343 172,343 170,308 - 170,308 99% 848 TENNANT AVE BUS PARK AD			626	700 724	700 724				
848 TENNANT AVE BUS PARK AD n/a 881 POLICE DONATION TRUST n/a TOTAL AGENCY FUNDS 3,140 2,605,704 2,605,704 4,587,661 - 4,587,661 176%				-	-	•	-	•	
POLICE DONATION TRUST n/a TOTAL AGENCY FUNDS 3,140 2,605,704 2,605,704 4,587,661 - 4,587,661 176%				172,343	172,343	170,308	-	170,308	
	848 881		-	-	-	-	-	-	
	TOTAL	AGENCY FIINDS	2 140	2 SOF 704	2 605 704	A 597 664		A 597 664	1769/
REPORT TOTAL 6,969,644 103,341,088 130,105,677 64,918,157 16,329,053 81,247,210 62%				2,605,704	2,000,704	4,507,001		4,507,001	
	REPORT	TOTAL	6,969,644	103,341,088	130,105,677	64,918,157	16,329,053	81,247,210	62%



City of Morgan Hill Enterprise Funds Report - Fiscal Year 2003/04 For the Month of March 2004 75% of Year Completed

YTD INCOME STATEMENT FOR CURRENT AND PRIOR YEAR

		Sewer Oper	rations		Water Operations			
			% of	Prior			% of	Prior
	Budget	YTD	Budget	YTD	Budget	YTD	Budget	YTD
Operations								
Revenues								
Service Charges Meter Install & Service	\$ 5,321,460	\$ 3,966,765	75%	\$ 3,783,950	\$ 5,738,350 40,000	\$ 4,659,665 33,585	81% 84%	34,722
Other	113,950	131,208	115%	101,677	249,584	431,269	173%	258,439
Total Operating Revenues	5,435,410	4,097,973	75%	3,885,627	6,027,934	5,124,519	85%	4,710,739
Expenses								
Operations Meter Reading/Repair Utility Billing/Water Conservation	4,533,215	3,260,755	72%	2,737,676	4,750,307 637,156 399,783	3,486,189 302,314 263,823	73% 47% 66%	
Total Operating Expenses	4,533,215	3,260,755	72%	2,737,676	5,787,246	4,052,326	70%	3,685,398
Operating Income (Loss)	902,195	837,218		1,147,951	240,688	1,072,193		1,025,341
Nonoperating revenue (expense)								
Interest Income	51,960	74,456	143%	- ,		28,540		67,485
Interest Expense/Debt Services Principal Expense/Debt Services	(856,625) (1,115,000)	(586,625) (1,115,000)	68% 100%	(,		(158,960) (31,260)	50% 14%	· · · · · · · · · · · · · · · · · · ·
Total Nonoperating revenue (expense)	(1,919,665)	(1,627,169)		(1,220,880)	(545,440)	(161,680)		(125,935)
Income before operating xfers	(1,017,470)	(789,951)		(72,929)	(304,752)	910,513		899,406
Operating transfers in Operating transfers (out)	- (913,285)	- (684,964)	75%	- (543,533)	1,045,785 (917,500)	784,339 (468,715)	75% 51%	
Net Income (Loss)	\$ (1,930,755)	\$ (1,474,915)		\$ (616,462)	\$ (176,467)	\$ 1,226,137		\$ (113,311)



City of Morgan Hill **Balance Sheets - Water and Sewer Funds** March 31, 2004 75% of Year Complete

	Sewer Operations (640)	Sewer Expansion Stabilization Capital Projects (641-643)	Water Operations (650)	Water Expansion Stabilization Capital Projects (651-653)
ASSETS				
Cash and investments:				
Unrestricted	3,102,652	6,612,791	3,118,019	3,960,380
Restricted ¹	1,893,400	6,051,848	390,542	(136,474)
Accounts Receivable		7,159		
Utility Receivables Less Allowance for Doubtful Accounts	716,899 (2,633)		783,966 (2,751)	
Notes Receivable ²				
Fixed Assets ³	31,802,422	9,911,459	23,624,143	8,620,811
Total Assets	37,512,740	22,583,257	27,913,919	12,444,717
LIABILITIES				
Accounts Payable and Accrued Liabilities Deposits for Water Services & Other Deposits Deferred Revenue 4	256,723	128,211	60,490 33,667	
Bonds Payable	25,390,000		5,985,863	
Discount on Bonds and Other Liabilities	(2,705,125)		(957,773)	
Accrued Vacation and Comp Time	41,966		88,959	
Total liabilities	22,983,564	128,211	5,211,206	0
FUND EQUITY				
Contributed Capital Retained Earnings	6,686,483		13,047,150	
Reserved for:				
Noncurrent water/sewer assets & debt	9,075,581	9,911,459	18,507,094	8,620,811
Encumbrances	82,526	470,030	630,770	1,318,372
Notes Receivable Restricted Cash	1,893,400	0	390,542	
		40 204 400		0.020.402
Total Reserved Retained Earnings	11,051,507	10,381,489	19,528,406	9,939,183
Unreserved Retained Earnings	3,477,669	12,073,557	3,174,307	2,505,534
Total Fund Equity	14,529,176	22,455,046	22,702,713	12,444,717
Total Liabilities and Fund Equity	37,512,740	22,583,257	27,913,919	12,444,717

Restricted for Bond Reserve requirements and capital expansion.
 Includes Note for Sewer Financing Agreements.
 Includes Water and Sewer infrastructure and the City's share of the Wastewater treatment plant.

⁴ Includes the deferred payment portion of the loans noted above.



City of Morgan Hill Balance Sheets for Major Funds - Fiscal Year 2003/04 March 31, 2004 75% of Year Complete

L/M Housing

Sewer

Water

RDA

	(Fund 010)	(Fund 317)	(Fund 327/328)	(Fund 640)	(Fund 650)
ASSETS	(2 2 2 2	,	,	((
Cash and investments:					
Unrestricted	11,397,958	7,011,112	4,828,385	3,102,652	3,118,019
Restricted ¹	4,150			1,893,400	390,542
Accounts Receivable	953,446	3,549	7,806		
Utility Receivables (Sewer and Water)				716,899	783,966
Less Allowance for Doubtful Accounts Loans and Notes Receivable ²	444,341	3,339,118	24,245,873	(2,633)	(2,751)
Prepaid Expense	444,341	3,339,110	24,245,673		
Fixed Assets ³		71,049		31,802,422	23,624,143
				.,,	
Total Assets	12,799,895	10,424,828	29,082,064	37,512,740	27,913,919
LIABILITIES					
Accounts Payable and Accrued Liabilities	230,327	20,180	13,353	256,723	60,490
Deposits for Water Services & Other Deposits	968,655	20,100	10,000	250,725	33,667
Deferred Revenue ⁴	519,807	1,143,834	6,286,255		,
Bonds Payable				25,390,000	5,985,863
Discount on Bonds and Other Liabilities	406,866			(2,705,125)	(957,773)
Accrued Vacation and Comp Time				41,966	88,959
Total liabilities	2,125,655	1,164,014	6,299,608	22,983,564	5,211,206
FUND EQUITY					
Contributed Capital				6,686,483	13,047,150
Fund Balance / Retained Earnings					
Reserved for:					
Noncurrent water/sewer assets & debt				9,075,581	18,507,094
Encumbrances	413,375	8,253,189	67,480	82,526	630,770
Restricted Cash				1,893,400	390,542
RDA properties held for resale Loans and Notes Receivable		71,049 2,195,284	17,959,619		
		2,193,204	17,939,019		
Total Reserved Fund Equity	413,375	10,519,522	18,027,099	11,051,507	19,528,406
Designated Fund Equity 5	7,300,000				
Unreserved/Undesignated Fund Equity	2,960,865	(1,258,708)	4,755,357	3,477,669	3,174,307
Total Fund Equity	10,674,240	9,260,814	22,782,456	14,529,176	22,702,713
Total Liabilities and Fund Equity	12,799,895	10,424,828	29,082,064	37,512,740	27,913,919

General Fund

¹ Restricted for Petty Cash use, Bond Reserve requirements and sewer and water capital expansion.

² Includes Housing Rehab loans, Financing Agreements for Public Works Fees and loans for several housing and Agency projects.

³ Includes Water and Sewer infrastructure, the City's share of the Wastewater treatment plant and RDA properties held for resale.

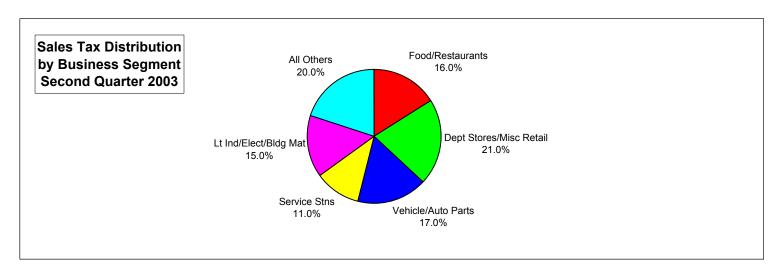
⁴ Includes the deferred payment portion of the loans noted above.

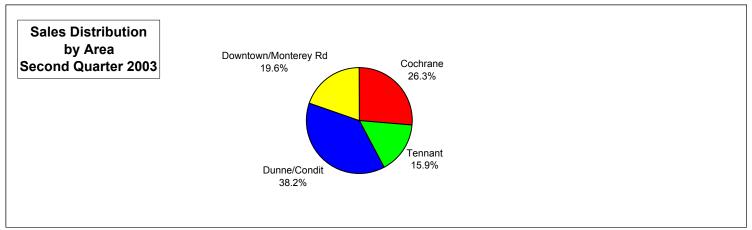
⁵ Designated for economic uncertainty, emergencies, and Fire Master Plan implementation



City of Morgan Hill
Sales Tax Comparison - Fiscal Year 2003/04
For the Month of March 2004
75% of Year Completed

	Amount Collecte	d for Month f	or Fiscal Year	Amount Colle	ected YTD for	Fiscal Year	Comparison of YT	D for fiscal years
Month	03/04	02/03	01/02	03/04	02/03	01/02	03/04 to 02/03	03/04 to 01/02
	-	•			•			
July	\$338,300	\$367,600	\$377,700	\$338,300	\$367,600	\$377,700	(29,300)	(39,400)
August	\$451,000	\$447,000	\$503,600	\$789,300	\$814,600	\$881,300	(25,300)	(92,000)
September	\$232,994	\$361,932	\$437,056	\$1,022,294	\$1,176,532	\$1,318,356	(154,238)	(296,062)
October	\$316,100	\$354,915	\$339,000	\$1,338,394	\$1,531,447	\$1,657,356	(193,053)	(318,962)
November	\$421,400	\$474,800	\$452,000	\$1,759,794	\$2,006,247	\$2,109,356	(246,453)	(349,562)
December	\$331,624	\$384,154	\$538,465	\$2,091,418	\$2,390,401	\$2,647,821	(298,983)	(556,403)
January	\$349,500	\$368,600	\$393,900	\$2,440,918	\$2,759,001	\$3,041,721	(318,083)	(600,803)
February	\$428,600	\$487,195	\$466,068	\$2,869,518	\$3,246,196	\$3,507,789	(376,678)	(638,271)
March	\$292,930	\$225,908	\$351,548	\$3,162,448	\$3,472,104	\$3,859,337	(309,656)	(696,889)
April		\$292,698	\$341,042		\$3,764,802	\$4,200,379		
May		\$394,500	\$461,500		\$4,159,302	\$4,661,879		
June		\$477,624	\$208,416		\$4,636,926	\$4,870,295		
Year To Da	ite Totals			\$3,162,448	\$4,636,926	\$4,870,295		
Sales Tax E	Budget for Year			\$4,650,000	\$5,330,000	\$5,300,000		
Percent of Percent of	Budget increase(decreas	e)		68%	87%	92%	-9%	-18%







AQUATICS CENTER PROJECT – MARCH CONSTRUCTION PROGRESS REPORT

RECOMMENDED ACTION(S): *Information Only*

EXECUTIVE SUMMARY:

Previous Council action awarded the contract for construction of the Aquatics Center Project to Gonsalves & Stronck Construction Company, Inc. At that time, staff informed Council that we would report monthly on the progress of the construction. Attached is the progress report for the month of March. This

Agenda Item # 7

Prepared By:

Project Manager

Approved By:

Public Works Director

Submitted By:

City Manager

report has been sent to our webmaster for posting on the City's website. Due to previous delays, the latent effects of inclement weather in February and current subcontractor issues, the project is still approximately 2 weeks behind schedule. The contractor submitted a "completion schedule" to demonstrate how they intended to make up that lost time. Unfortunately, they are currently tracking approximately 3 days behind that schedule. We are working with the contractor to determine what is required to obtain substantial completion on the original contract date of May 24th. The project is currently within budget.

FISCAL IMPACT: None



CITY COUNCIL STAFF REPORT

MEETING DATE: April 21, 2004

APPROVE PURCHASE ORDER FOR FURNITURE AT THE **AQUATICS CENTER**

RECOMMENDED ACTION(S): Authorize the City Manager to execute a Purchase Order in the amount of \$60,894.11 with OPI (Office Products & Interiors) for furniture at the Aquatics Center.

Agenda Item # 8
Prepared By:
Project Manager
Approved By:
Public Works Director
Submitted By:
City Manager

EXECUTIVE SUMMARY:

This past January we engaged OPI to prepare a design, including plans and specifications, of the required furniture at the Aquatics Center. They completed that in March and staff subsequently requested proposals from OPI and two other bay area furniture dealers. We received only the one proposal from OPI dated 4/8/04 for delivery and installation of interior furniture for \$60,894.11. The two other dealers chose not to submit proposals. Staff has reviewed the OPI proposal and found it to be acceptable. It is also within the budgeted amount for the project. Further, staff has worked successfully with OPI on various other City projects such as the City Hall Reconfiguration, the Community and Cultural Center, the Community Playhouse and Public Works Reconfiguration. It is now necessary to place the furniture order so that we can expect delivery in time for the Center's Grand Opening. Staff recommends approval of the Purchase Order in the amount of \$60,894.11 to OPI.

This amount is currently included in the FF&E (Furnishings, Fixtures and FISCAL IMPACT: Equipment) portion of the adopted project budget for CIP #115000-Aquatics Center and no additional funding is required.



DONATION FROM HOWARD LEWIS FOR AQUATICS CENTER

RECOMMENDED ACTION(S): Accept donation from Howard Lewis in the amount of \$1,500 for the purchase of lifeguard tower.

Agenda Item # 9
Prepared By:
(Staff Dayson))
(Staff Person))
Approved By:
(Department Head)
Submitted By:
Submitted by.
City Manager

EXECUTIVE SUMMARY:

Howard Lewis expressed an interest in donating some money to the new Morgan Hill Aquatic Center. After looking at some of the needs of the center Mr. Lewis chose to donate \$1,500 towards the purchase of lifeguard tower(s). He expressed what a positive contribution he felt the facility would be to the community.

Following the approval of the item, the \$1,500 will be used towards the purchase of lifeguard tower(s).

FISCAL IMPACT:

Recognize the \$1,500 donation as revenue in fund 317, and appropriate the same for the purchase of lifeguard tower(s) recording to account 317-86450-8055-115000. Net effect on the fund is zero. Budget scorecard is attached as Exhibit A.



AMENDMENT TO AGREEMENT WITH VTA FOR SHELTER ADVERTISING PROGRAM

RECOMMENDED ACTION(S): Approve the attached Amendment No. 5 to the VTA Shelter Advertising Program.

Agenda Item # 10
Prepared By:
Public Works Director
Submitted By:
City Manager

EXECUTIVE SUMMARY: Several years ago, most of the cities in the county joined with the VTA in supporting a shelter advertising program on VTA bus shelters which makes the party installing advertisements on the shelters responsible for both the construction and the maintenance of the shelters. The City of Palo Alto has very recently joined the program and VTA is requesting the City approve an amendment to the agreement which merely adds the City of Palo Alto as a party to the agreement. Staff recommends approval of the attached Amendment No. 5 to the VTA Shelter Advertising Program.

FISCAL IMPACT: None



Agenda Item #11
Prepared By:
Senior Engineer
Approved By:
Public Works Director
Submitted By:

City Manager

ADOPT A RESOLUTION DECLARING THE CITY OF MORGAN HILL'S COMMITMENT TO BEING A BICYCLE AND TRAILS FRIENDLY COMMUNITY

RECOMMENDED ACTION(S): Adopt the attached Resolution declaring the City of Morgan Hill's commitment to being a bicycle and trails friendly community.

EXECUTIVE SUMMARY: The Morgan Hill Bicycle and Trails Advisory Committee is preparing an application to the League of American Bicyclists to request that they designate Morgan Hill as a "Bicycle Friendly Community". Cities that are bicycle-friendly are seen as communities that are family oriented with a high quality of life. This often translates into increased business growth and increased tourism. Bicycle and walking friendly communities are places where people feel safe and comfortable riding their bikes for fun, fitness and transportation. With more people bicycling and walking, communities experience reduced traffic congestion, improved air quality and greater physical fitness of its citizens.

By adopting the attached resolution declaring the City's commitment to being a bicycle friendly community, the Council will be providing a large measure of support for the "Bicycle Friendly Community" application being prepared by the BTAC.

FISCAL IMPACT: None

RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL DECLARING ITS COMMITMENT TO BEING A BICYCLE AND TRAILS FRIENDLY COMMUNITY

WHEREAS, the City Council of the City of Morgan Hill acknowledges that Morgan Hill provides an ideal environment for walking and cycling; and

WHEREAS, walking and cycling are healthy and positive community experiences the City desires to provide for its citizens; and

WHEREAS, the City of Morgan Hill demonstrated its commitment to being a bicycle friendly community by developing and adopting a Bicycle Master Plan which is compatible with the Santa Clara Countywide Bicycle Master Plan; and

WHEREAS, the City of Morgan Hill considers facilities and improvements that promote safe walking and bicycling an important and worthy part of the City's infrastructure; and

WHEREAS, the City of Morgan Hill partners with Santa Clara County, Valley Transportation Authority, Morgan Hill Unified School District, Santa Clara Valley Water District and other agencies in encouraging programs aimed at motivating and empowering individuals and organizations throughout the Santa Clara Valley to come together to promote healthy activities and nurture and develop competent caring and responsible children, youth and adult; and

NOW, THEREFORE, **BE IT RESOLVED** that the City Council of the City of Morgan Hill declares its commitment to being a bicycle and trails friendly community and lends its support to the efforts of staff and community members in improving the amenities of the city through programs, activities, and education of youth and adult community on the benefits of a strong, committed cycling and walking community.

PASSED AND ADOPTED by the City Council of Morgan Hill at a Regular Meeting held on the 21st Day of April, 2004 by the following vote.

AYES: COUNCIL MEMBERS: NOES: COUNCIL MEMBERS: ABSTAIN: COUNCIL MEMBERS: COUNCIL MEMBERS:

***** CERTIFICATION *****

I, IRMA TORREZ, CITY CLERK OF THE CITY OF MORGAN HILL, CALIFORNIA, do hereby certify that the foregoing is a true and correct copy of Resolution No., adopted by the City Council at a Regular Meeting held on April 21, 2004.

WITNESS MY HAND AND THE SEAL OF THE CITY OF MORGAN HILL.

DATE:	
.	IRMA TORREZ, City Clerk



FINAL MAP ACCEPTANCE FOR CENTRAL PARK PH. VII (TRACT 9562)

Prepared By: Senior Civil Engineer Approved By: Public Works Director Submitted By:

City Manager

Agenda Item # 12

RECOMMENDED ACTION(S):

- 1) Approve the final map, subdivision agreement and improvement plans
- 2) Authorize the City Manager to sign the Subdivision Improvement Agreement on behalf of the City
- 3) Authorize the recordation of the map and the Subdivision Improvement Agreement following recordation of the Development Improvement Agreement

EXECUTIVE SUMMARY:

Tract 9562 is a 39 lot subdivision located on the north side of East Central Avenue east of the Calle Mazatan intersection (see attached location map). The developer has completed all the conditions specified by the Planning Commission in the approval of the Tentative Map on September 9, 2003.

The developer has furnished the City with the necessary documents to complete the processing of the Final Map and has made provision with a Title Company to provide the City with the required fees, insurance and bonds prior to recordation of the Final Map.

FISCAL IMPACT:

Development review for this project is from development processing fees.



APPROVE SUBDIVISION IMPROVEMENT AGREEMENT FOR COYOTE ESTATES PHASE VIII (TRACT 9567)

Agenda Item # 13
Prepared By:
Senior Engineer
Approved By:
Public Works Director
Submitted By:
City Manager

RECOMMENDED ACTION(S):

- 1) Authorize the City Manager to sign the Subdivision Improvement Agreement on behalf of the City
- 2) Authorize the recordation of the map and the Subdivision Improvement Agreement following recordation of the Development Improvement Agreement

EXECUTIVE SUMMARY: Tract 9567 is a 9 lot subdivision located on the north side of Cochrane Road within the Coyote Estates development (see attached diagram). The developer has completed all the conditions specified by the Planning Commission in the approval of the Tentative Map on December 2, 2003.

The developer has furnished the City with the necessary documents to complete the processing of the Final Map and has made provision with a Title Company for the recordation of the Final Map.

FISCAL IMPACT: Development review for this project is from development processing fees.



AMENDMENT TO CONSULTANT SERVICES AGREEMENT FOR JACKSON OAKS BOOSTER STATION

RECOMMENDED ACTION(S): Approve amendment to the agreement with Freitas Engineering for design and construction services on the Jackson Oaks Booster Station, increasing the contract amount by \$13,500 and extending the completion date to December 31, 2005.

Agenda Item # 14
Prepared By:
Contract Project Manager
Approved By:
Public Works Director
Submitted By:
City Manager

EXECUTIVE SUMMARY: On July 10, 2002, the City entered into a contract to design a new booster station to replace the obsolete and inefficient existing Jackson Oaks Booster Station. The project has taken longer than expected due to changes siting the new facility and compliance with Architectural Review Board requirements. The project is now designed. The bid period is tentatively scheduled for June 2004. The additional work by Freitas Engineering increases their original not-to-exceed fee from \$69,500 to \$83,000.

The original contract time has been expended. To avoid unnecessary impacts on the water system, construction is scheduled to begin in late summer, with tie-in to the existing system during the off-season. It is recommended that the consultant's contract be extended to December 2005 to cover the construction period.

FISCAL IMPACT: The reconstruction of the Jackson Oaks Booster Station is approved within the City's CIP budget, (Project Number 607A98) and current year funding is sufficient to cover the added costs of this contract amendment.



TITLE: AMENDMENT TO AGREEMENT WITH THE LAW OFFICES OF ROGER BEERS

RECOMMENDED ACTIONS:

Authorize the City Manager to execute an Amended Agreement with the law offices of Roger Beers.

Agenda Item # 15					
Prepared By:					
(Title)					
Approved By:					
(Department Director)					
Submitted By:					
City Manager					

EXECUTIVE SUMMARY:

On August 5, 2003, the City entered into a contract in the amount of \$20,000 with the law offices of Roger Beers, to handle matters relating to the Institute Golf Course. As this matter is ongoing, staff is recommending that Council approve the attached Amendment to Agreement to increase the contract amount to \$40,000 to cover the continuing representation of the City's interests.

FISCAL IMPACT:

The cost of this Amendment to Agreement can be accommodated in the City Attorney's budget. No additional appropriation is necessary at this time.

AMENDMENT TO AGREEMENT LAW OFFICE OF ROGER BEERS

	THIS	AGREEMEN	T is made t	this	day	of		, 20,	, by the Cl	ΤY	OF M	IORGAN	N HILL
а	municipal	corporation,	("CITY"),	and ,	LAW	OFFICE	OF	ROGER	BEERS,	а	sole	proprie	torship
("	CONSULT	ANT").											

RECITALS

The following recitals are a substantive part of this Agreement:

- 1. This Agreement is entered into based upon City of Morgan Hill City Council approval on April 21, 2004.
- 2. CITY desires to amend the CONSULTANT AGREEMENT dated August 5, 2003, attached as Exhibit "A" to this Agreement and incorporated herein.

AGREEMENT

THE PARTIES MUTUALLY AGREE AS FOLLOWS:

- 1. <u>Term and Condition of Original Agreement</u>. All terms and conditions contained in Exhibit "A" are to remain in full force and effect with the sole exception of the terms listed below:
 - 4: **Compensation**: CONSULTANT shall be compensated as follows:
 - 4.1 <u>Amount</u>. Compensation for all services, fees and expenses under this Agreement shall not exceed FORTY THOUSAND AND NO/100 DOLLARS (\$40,000.00). Compensation shall be on an hourly billing rate, which rates are set forth in Exhibit "B," attached hereto and incorporated herein by reference. No rate changes shall be made during the term of this agreement without prior written approval from the CITY.

ATTEST:	THE CITY OF MORGAN HILL
City Clerk Date:	City Manager Date:
APPROVED:	LAW OFFICE OF ROGER BEERS
Risk Manager Date:	By: Date:
APPROVED AS TO FORM:	
City Attorney Date:	

 $\hbox{C:$\backslash Documents and Settings$\backslash Temp$Beers Amend Institute.doc}$



AWARD CONTRACT FOR AUDIT SERVICES FOR THE FISCAL YEARS ENDING JUNE 30, 2004, 2005 AND 2006

RECOMMENDED ACTION(S):

Authorize the City Manager to Execute a Contract not to exceed \$45,107 for annual audit services provided by Moss, Levy and Hartzheim for the three years ending June 30, 2004, 2005 and 2006.

Prepared By:

Assistant Finance Director

Approved By:

Finance Director

Submitted By:

City Manager

EXECUTIVE SUMMARY:

In February 2004, a Request for Proposals was sent to thirty-four audit firms following discussion and review by the Finance and Audit Committee. Five responses were received. All five firms were interviewed by a panel consisting of the City Treasurer, Finance Director, Assistant Finance Director and two Accountants. Based on a preliminary score and the interview process the firm Moss, Levy and Hartzheim is recommended to provide audit services for the next three years. There is an option to renew for an additional two years.

FISCAL IMPACT:

The cost for three years is not to exceed \$45,107 (\$14,450 for 2004, \$15,028 for 2005 and \$15,629 for 2006). The current annual cost is \$18,850. Amounts are budgeted in each fiscal year.



DEDICATION OF POLICE FACILITY AT 16200 VINEYARD BLVD.

RECOMMENDED ACTION(S):

Authorize the dedication of the new Police Facility, located at 16200 Vineyard Boulevard, in the name of Chief John R. Moreno.

EXECUTIVE SUMMARY:

John R. Moreno began his law enforcement career as a Morgan Hill Police Officer in 1945. In 1950 he became Chief of Police and served in that capacity until his retirement in 1975. He moved the Department in the 1960's to the

current Police Facility which was later dedicated to him by City Council. This building was dedicated in Chief Moreno's name because of his innovation and tenacity in laying the groundwork for a modern day Police Department and his selfless commitment to the City. Some of the many benefits the Department derived from his knowledge was the creation of the Police Reserve Program, hiring the first K-9, introduction of computers in police work and a Department force of 15 officers by 1975.

Outside of police work, John Moreno was active in civic groups, such as Rotary, served on City and School Board Commissions and acted as a mentor, teacher and role model to inspire many to follow his lead in community involvement. "Mr. Morgan Hill" served the City in the capacity of Police Officer, Police Chief, City Manager and Councilman. His voluntary return to City office last occurred during the difficult 1992 recall. This was his last formal appointment. He was an individual who contributed outstanding civic service to the City until his death in October 2003. John Moreno devoted himself to the citizens of Morgan Hill.

In recognition of Chief Moreno's commitment, civic service and principles, staff is requesting Council to dedicate the new police facility and name the new building the **John R. Moreno Police Facility**.

FISCAL IMPACT:

No budget adjustment required.

Agenda Item # 17

Prepared By:

Pam Borzone
(Management Analyst)

Approved By:

Interim Chief B. Cumming

Submitted By:

City Manager



CITY COUNCIL STAFF REPORT MEETING DATE: APRIL 21, 2004

ADOPT ORDINANCE NO. 1666, NEW SERIES

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING A ZONING AMENDMENT FROM R-2 3,500 TO R-2 3,500/RPD RESIDENTIAL PLANNED DEVELOPMENT OVERLAY AND ADOPTION OF A PRECISE DEVELOPMENT **PLAN FOR** A ONE ACRE PARCEL **LOCATED** ON THE **NORTH WEST CORNER** WATSONVILLE ROAD AND CALLE SUENO (APPLICATION ZA-03-10: WATSONVILLE – SOUTH COUNTY HOUSING APN 767-23-017)

Agenda Item # 18
Prepared By:
Deputy City Clerk
Approved By:
City Clerk
Submitted By:
City Manager

RECOMMENDED ACTION(S):

<u>Waive</u> the Reading, and <u>Adopt</u> Ordinance No. 1666, New Series, and <u>Declare</u> That Said Title, Which Appears on the Public Agenda, Shall Be Determined to Have Been Read by Title and Further Reading Waived.

EXECUTIVE SUMMARY:

On April 7, 2004, the City Council Introduced Ordinance No. 1666, New Series, by the Following Roll Call Vote: AYES: Carr, Chang, Kennedy, Sellers, Tate; NOES: None; ABSTAIN: None; ABSENT: None.

FISCAL IMPACT:

No budget adjustment required.

ORDINANCE NO. 1666, NEW SERIES

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING A ZONING AMENDMENT FROM R-2 3,500 TO R-2 3,500/RPD RESIDENTIAL PLANNED DEVELOPMENT OVERLAY AND ADOPTION OF A PRECISE DEVELOPMENT PLAN FOR A ONE ACRE PARCEL THE **NORTH** WEST LOCATED ON CORNER WATSONVILLE ROAD AND CALLE SUENO (APPLICATION ZA-03-10: WATSONVILLE – SOUTH COUNTY HOUSING APN 767-23-017)

THE CITY COUNCIL OF THE CITY OF MORGAN HILL DOES HEREBY ORDAINS AS FOLLOWS:

- **SECTION 1.** The proposed zoning amendment is consistent with the Zoning Ordinance and the General Plan.
- **SECTION 2.** The zone change is required in order to serve the public convenience, necessity and general welfare as provided in Section 18.62.050 of the Municipal Code.
- SECTION 3. An environmental initial study has been prepared for this application and has been found complete, correct and in substantial compliance with the requirements of California Environmental Quality Act. A Mitigated Negative Declaration has been filed.
- **SECTION 4.** The City Council finds that the proposed RPD and Precise Development Plan are consistent with the criteria specified in Chapter 18.18 & 18.47 of the Morgan Hill Municipal Code.
- SECTION 5. The City Council hereby approves the Precise Development Plan as contained in that certain series of documents date stamped March 10, 2004 on file in the Community Development Department, entitled "Viale-South County Housing" prepared by Dahlin Group/RJA & Assoc./Smith & Smith. These documents, as amended by site and architectural review, show the location and sizes of all lots in this development and the location and dimensions of all proposed buildings, vehicle and pedestrian circulation ways, parking areas, landscape areas and any other purposeful uses on the project.
- **SECTION 6.** The City Council hereby approves the amendment to the City Zoning Map as shown in attached Exhibit "A".
- SECTION 7. Severability. If any part of this Ordinance is held to be invalid or inapplicable to any situation by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance or the applicability of this Ordinance to other situations.

City of Morgan Hill Ordinance No. 1666, New Series Page 2

SECTION 7. Effective Date; Publication. This Ordinance shall take effect from and after thirty (30) days after the date of its adoption. The City Clerk is hereby directed to publish this ordinance pursuant to §36933 of the Government Code.

The foregoing ordinance was introduced at the regular meeting of the City Council of the City of Morgan Hill held on the 7th Day of April 2004, and was finally adopted at a regular meeting of said Council on the 21st Day of April 2004, and said ordinance was duly passed and adopted in accordance with law by the following vote:

AYES: NOES: ABSTAIN: ABSENT:	COUNCIL MEMBERS: COUNCIL MEMBERS: COUNCIL MEMBERS: COUNCIL MEMBERS:	
ATTEST:		APPROVED:
Irma Torrez	z, City Clerk	Dennis Kennedy, Mayor
	∞ CERTIFICATE O	OF THE CITY CLERK &
CALIFORN 1666, New S	IIA, do hereby certify that the for	RK OF THE CITY OF MORGAN HIL regoing is a true and correct copy of Ordinance N ncil of the City of Morgan Hill, California at the 2004.
WIT	NESS MY HAND AND THE S	EAL OF THE CITY OF MORGAN HILL.
DATE:		IDMA TODDEZ C'A- Clark
		IRMA TORREZ, City Clerk



CITY COUNCIL STAFF REPORT MEETING DATE: APRIL 21, 2004

ADOPT ORDINANCE NO. 1667, NEW SERIES

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING DEVELOPMENT AGREEMENT, DA 03-06 FOR MP 02-26: WATSONVILLE- SOUTH COUNTY HOUSING (APN 767-23-017)

Agenda Item # 19
Prepared By:
Deputy City Clerk
Approved By:
City Clerk
Submitted By:
City Manager

RECOMMENDED ACTION(S):

<u>Waive</u> the Reading, and <u>Adopt</u> Ordinance No. 1667, New Series, and <u>Declare</u> That Said Title, Which Appears on the Public Agenda, Shall Be Determined to Have Been Read by Title and Further Reading Waived.

EXECUTIVE SUMMARY:

On April 7, 2004, the City Council Introduced Ordinance No. 1667, New Series, by the Following Roll Call Vote: AYES: Carr, Chang, Kennedy, Sellers, Tate; NOES: None; ABSTAIN: None; ABSENT: None.

FISCAL IMPACT:

No budget adjustment is required.

ORDINANCE NO. 1667, NEW SERIES

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING DEVELOPMENT AGREEMENT, DA 03-06 FOR MP 02-26: WATSONVILLE-SOUTH COUNTY HOUSING (APN 767-23-017)

THE CITY COUNCIL OF THE CITY OF MORGAN HILL DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. The City Council has adopted Resolution No. 4028 establishing a procedure for processing Development Agreements for projects receiving allotments through the Residential Development Control System, Title 18, Chapter 18.78 of the Municipal Code.

SECTION 2. The California Government Code Sections 65864 thru 65869.5 authorizes the City of Morgan Hill to enter into binding Development Agreements with persons having legal or equitable interests in real property for the development of such property.

SECTION 3. The Planning Commission, pursuant to Title 18, Chapter 18.78.125 of the Municipal Code and Resolution No. 03-22, adopted April 22, 2003, has awarded allotments to a certain project herein after described as follows:

Project

Total Dwelling Unit

MP 02-26: Watsonville-So. Co. Housing

12 Single-Family Attached Homes*

*Project reduced to 10 units through zoning amendment approval of a precise development plan.

SECTION 4. Due to a reduction in the number of units within the project to 10, the Planning Commission re-assigned the two excess allotments to another affordable project through Resolution No. 04-35 adopted March 23, 2004

SECTION 5. References are hereby made to certain Agreements on file in the office of the City Clerk of the City of Morgan Hill. These documents to be signed by the City of Morgan Hill and the property owner set forth in detail and development schedule, the types of homes, and the specific restrictions on the development of the subject property. Said Agreement herein above referred to shall be binding on all future owners and developers as well as the present owners of the lands, and any substantial change can be made only after further public hearings before the Planning Commission and the City Council of this City.

SECTION 6. The City Council hereby finds that the development proposal and agreement approved by this ordinance is compatible with the goals, objectives, policies, and land uses designated by the General Plan of the City of Morgan Hill.

SECTION 6. Authority is hereby granted for the City Manager to execute all development agreements approved by the City Council during the Public Hearing Process.

City of Morgan Hill Ordinance No. 1666, New Series Page 2

SECTION 7. Severability. If any part of this Ordinance is held to be invalid or inapplicable to any situation by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance or the applicability of this Ordinance to other situations.

SECTION 8. Effective Date Publication. This ordinance shall take effect from and after thirty (30) days after the date of its adoption. The City Clerk is hereby directed to publish this ordinance pursuant to §36933 of the Government Code.

The foregoing ordinance was introduced at the regular meeting of the City Council of the City of Morgan Hill held on the 7th Day of April 2004, and was finally adopted at a regular meeting of said Council on the 21st Day of April 2004, and said ordinance was duly passed and adopted in accordance with law by the following vote:

ABSTAIN:	COUNCIL MEMBERS: COUNCIL MEMBERS: COUNCIL MEMBERS: COUNCIL MEMBERS:	
ATTEST:		APPROVED:
Irma Torrez	z, City Clerk	Dennis Kennedy, Mayor
	∞ <u>CERTIFICATE (</u>	OF THE CITY CLERK CS
CALIFORN 1667, New S	VIA, do hereby certify that the for	RK OF THE CITY OF MORGAN HILD regoing is a true and correct copy of Ordinance N acil of the City of Morgan Hill, California at the 2004.
WIT	NESS MY HAND AND THE S	EAL OF THE CITY OF MORGAN HILL.
DATE:		TRIMA TORREZ CU CL I
		IRMA TORREZ, City Clerk



CITY COUNCIL STAFF REPORT MEETING DATE: APRIL 21, 2004

ADOPT ORDINANCE NO. 1669, NEW SERIES

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL AMENDING THE ZONING FOR 120 WRIGHT AVENUE, A 8240 SQUARE FOOT LOT FROM R1-7,000 TO R3 AND AMENDING THE ZONING FOR 4.3 ACRES OF AN 8.3 **LOCATED** ON **ACRE** LOT **MONTEREY ROAD** APPROXIMATELY 700 FEET NORTH OF WATSONVILLE ROAD FROM R3 TO R2-3,500. (APN 764-14-003 & APN 767-23-016, **ZA-04-03**: **CITY MORGAN HILL-ZONING MAP CORRECTIONS**)

Agenda Item # 20	_
Prepared By:	
Deputy City Clerk	
Approved By:	
City Clerk	
Submitted By:	
City Manager	

RECOMMENDED ACTION(S):

<u>Waive</u> the Reading, and <u>Adopt</u> Ordinance No. 1669, New Series, and <u>Declare</u> That Said Title, Which Appears on the Public Agenda, Shall Be Determined to Have Been Read by Title and Further Reading Waived.

EXECUTIVE SUMMARY:

On April 7, 2004, the City Council Introduced Ordinance No. 1669, New Series, by the Following Roll Call Vote: AYES: Carr, Chang, Kennedy, Sellers, Tate; NOES: None; ABSTAIN: None; ABSENT: None.

FISCAL IMPACT:

The cost of researching and compiling this documentation was approximately \$1000. This amount is charged to the General Plan fund.

ORDINANCE NO. 1669, NEW SERIES

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL AMENDING THE ZONING FOR 120 WRIGHT AVENUE, A 8240 SQUARE FOOT LOT FROM R1-7,000 TO R3 AND AMENDING THE ZONING FOR 4.3 ACRES OF AN 8.3 ACRE LOT LOCATED ON MONTEREY ROAD APPROXIMATELY 700 FEET NORTH OF WATSONVILLE ROAD FROM R3 TO R2-3,500. (APN 764-14-003 & APN 767-23-016, ZA-04-03: CITY MORGAN HILL-ZONING MAP CORRECTIONS)

THE CITY COUNCIL OF THE CITY OF MORGAN HILL DOES HEREBY ORDAINS AS FOLLOWS:

- **SECTION 1.** The proposed zoning amendment is consistent with the Zoning Ordinance and the General Plan.
- **SECTION 2.** The zone change is required to serve the public convenience, necessity, and general welfare as provided in Section 18.62.050 of the Municipal Code.
- SECTION 3. The project for parcel number 764-14-003 is categorically exempt from CEQA under Section 15301L(1), existing facilities. The project for parcel 767-23-016 was reviewed as part of Master Environmental Impact Report for the 2001 General Plan update and has been found complete, correct and in substantial compliance with the requirements of the California Environmental Quality Act. The Zoning Amendment complies with the General Plan as required by §65860 of the Government Code.
- **SECTION 4.** The Zoning Map of the City of Morgan Hill, which is referenced under Title 18, Chapter 18.06 of the Morgan Hill Municipal Code, is hereby amended as shown in the attached Exhibit A.
- **SECTION 5.** Severability. If any part of this Ordinance is held to be invalid or inapplicable to any situation by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance or the applicability of this Ordinance to other situations.
- **SECTION 6.** Effective Date; Publication. This Ordinance shall take effect from and after thirty (30) days after the date of its adoption. The City Clerk is hereby directed to publish this ordinance pursuant to §36933 of the Government Code.

City of Morgan Hill Ordinance No. 1669, New Series Page 2

The foregoing ordinance was introduced at the regular meeting of the City Council of the City of Morgan Hill held on the 7th Day of April 2004, and was finally adopted at a regular meeting of said Council on the 21st Day of April 2004, and said ordinance was duly passed and adopted in accordance with law by the following vote:

ATTEST: APPROVED: Irma Torrez, City Clerk Dennis Kennedy, Mayo © CERTIFICATE OF THE CITY CLERK ©	
EXECUTE OF THE CITY CLERK ♥3	<u> </u>
I, IRMA TORREZ, CITY CLERK OF THE CITY OF CALIFORNIA, do hereby certify that the foregoing is a true and correct cop 1669, New Series, adopted by the City Council of the City of Morgan Hill regular meeting held on the 21 st Day of April 2004.	y of Ordinance No
WITNESS MY HAND AND THE SEAL OF THE CITY OF MOI	RGAN HILL.
DATE:IRMA TORREZ, City	



CITY COUNCIL STAFF REPORT MEETING DATE: APRIL 21, 2004

ADOPT ORDINANCE NO. 1670, NEW SERIES

AN ORDINANCE OF THE CITY COUNCILOF THE CITY OF **MORGAN HILL APPROVING** A ZONING AMENDMENT **FROM MULTI FAMILY MEDIUM R-3** TO **PUBLIC** FACILITIES. PF **FOR** APPLICATION ZA-02-08: BUTTERFIELD-CITY OF MORGAN HILL REDEVELOPMENT **AGENCY - COURT HOUSE (APN 726-12-006)**

Agenda Item # 21
Prepared By:
Deputy City Clerk
Approved By:
City Clerk
Submitted By:
City Manager

RECOMMENDED ACTION(S):

<u>Waive</u> the Reading, and <u>Adopt</u> Ordinance No. 1670, New Series, and <u>Declare</u> That Said Title, Which Appears on the Public Agenda, Shall Be Determined to Have Been Read by Title and Further Reading Waived.

EXECUTIVE SUMMARY:

On April 7, 2004, the City Council Introduced Ordinance No. 1670, New Series, by the Following Roll Call Vote: AYES: Carr, Chang, Kennedy, Sellers, Tate; NOES: None; ABSTAIN: None; ABSENT: None.

FISCAL IMPACT:

No budget adjustment is required.

ORDINANCE NO. 1670, NEW SERIES

AN ORDINANCE OF THE CITY COUNCILOF THE CITY OF MORGAN HILL APPROVING A ZONING AMENDMENT FROM MULTI FAMILY MEDIUM R-3 TO PUBLIC FACILITIES, PF FOR APPLICATION ZA-02-08: BUTTERFIELD-CITY OF MORGAN HILL REDEVELOPMENT AGENCY - COURT HOUSE (APN 726-12-006)

THE CITY COUNCIL OF THE CITY OF MORGAN HILL DOES HEREBY ORDAIN AS FOLLOWS:

- **SECTION 1.** Such request was considered by the City Council at their regular meeting of April 7, 2004. Testimony was received and considered at a duly-noticed public hearing at the meeting, along with exhibits and drawings and other materials have been considered in the review process.
- **SECTION 2.** The Council hereby re-designates 8.14 acres from Multi-Family Medium R-3 to Public Facilities, PF.
- **SECTION 3. INCORPORATING THE MAP BY REFERENCE.** There hereby is attached hereto and made a part of this ordinance, a zoning map entitled "Exhibit A" Map Showing rezoning Lands of City of Morgan Hill Being a Part of Ordinance No. 1670, New Series, which gives the boundaries of the described parcel of land.
- SECTION 4. FINDING OF CONSISTENCY WITH THE GENERAL PLAN. The City Council hereby finds that the amendment established by this ordinance as herein described is compatible with the goals, objectives, policies and land use designation of the General Plan of the City of Morgan Hill. The Council further finds that the proposed amendment is required in order to serve the public health, convenience and general welfare as provided by Section 18.62.010 of the Morgan Hill Municipal Code.
- **SECTION 5.** An Environmental Impact Report has been certified by the Santa Clara Board of Supervisors for this project.
- **SECTION 6.** Severability. If any part of this Ordinance is held to be invalid or inapplicable to any situation by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance or the applicability of this Ordinance to other situations.
- **SECTION 7.** Effective Date; Publication. This Ordinance shall take effect from and after thirty (30) days after the date of its adoption. The City Clerk is hereby directed to publish this ordinance pursuant to §36933 of the Government Code.

City of Morgan Hill Ordinance No. 1670, New Series Page 2

The foregoing ordinance was introduced at the regular meeting of the City Council of the City of Morgan Hill held on the 7th Day of April 2004, and was finally adopted at a regular meeting of said Council on the 21st Day of April 2004, and said ordinance was duly passed and adopted in accordance with law by the following vote:

AYES: NOES: ABSTAIN: ABSENT:	COUNCIL MEMBERS:		
ATTEST:		APPROVED:	
Irma Torrez	z, City Clerk	Dennis Kennedy, Mayor	
	∞ <u>CERTIFICATE</u> (OF THE CITY CLERK 08	
CALIFORN 1670, New S	IIA, do hereby certify that the fo	RK OF THE CITY OF MORO regoing is a true and correct copy of O acil of the City of Morgan Hill, Calif 2004.	ordinance No
WIT	NESS MY HAND AND THE S	EAL OF THE CITY OF MORGAN	HILL.
DATE:			
		IRMA TORREZ, City Clerk	



CITY COUNCIL STAFF REPORT MEETING DATE: APRIL 21, 2004

ADOPT ORDINANCE NO. 1671, NEW SERIES

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING A ZONING AMENDMENT FROM R2-3,500 TO PUBLIC FACILITIES ON AN 8.49-ACRE SITE LOCATED ON THE NORTH SIDE OF EDMUNDSON AVENUE AT THE SOUTHEAST SIDE OF COMMUNITY PARK FOR APPLICATION ZA-02-10: EDMUNDSON – MORGAN HILL REDEVELOPMENT AGENCY-INDOOR RECREATION CENTER (IRC) (APNS 767-18-025 & -037).

Agenda Item #22
Prepared By:
Deputy City Clerk
Approved By:
City Clerk
Submitted By:
City Manager

RECOMMENDED ACTION(S):

<u>Waive</u> the Reading, and <u>Adopt</u> Ordinance No. 1671, New Series, and <u>Declare</u> That Said Title, Which Appears on the Public Agenda, Shall Be Determined to Have Been Read by Title and Further Reading Waived.

EXECUTIVE SUMMARY:

On April 7, 2004, the City Council Introduced Ordinance No. 1671, New Series, by the Following Roll Call Vote: AYES: Carr, Chang, Kennedy, Sellers, Tate; NOES: None; ABSTAIN: None; ABSENT: None.

FISCAL IMPACT:

The costs associated with the processing of the applications and the environmental review has been charged to the Capital Improvement Program.

ORDINANCE NO. 1671, NEW SERIES

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING A ZONING AMENDMENT FROM R2-3,500 TO PUBLIC FACILITIES ON AN 8.49-ACRE SITE LOCATED ON THE NORTH SIDE OF EDMUNDSON AVENUE AT THE SOUTHEAST SIDE OF COMMUNITY PARK FOR APPLICATION ZA-02-10: EDMUNDSON – MORGAN HILL REDEVELOPMENT AGENCY-INDOOR RECREATION CENTER (IRC) (APNS 767-18-025 & -037).

THE CITY COUNCIL OF THE CITY OF MORGAN HILL DOES HEREBY ORDAIN AS FOLLOWS:

- **SECTION 1.** The City Council hereby re-designates 8.49 acres located on the north side of Edmundson Avenue on the southeast side of Community Park and consisting of parcels 767-18-025 & -037 from R2-3,500 Single Family Medium Density to PF Public Facilities zoning designation.
- **SECTION 2**. Testimony received at a duly-noticed public hearing, along with exhibits and drawings and other materials have been considered in the review process.
- **SECTION 3.** Such request was considered by the City Council at their regular meeting of April 7, 2004, at which time the City Council approved of zoning amendment application ZA-02-10: Edmundson Morgan Hill RDA (IRC).
- **SECTION 4. INCORPORATING THE MAP BY REFERENCE.** There hereby is attached hereto and made a part of this ordinance, a zoning map entitled "Exhibit A", "Map Showing Rezoning Lands of "Morgan Hill Redevelopment Agency Being Part of Ordinance No. 1671, New Series", which gives the boundaries of the described parcels of Land.
- **SECTION 5. DESCRIPTION OF LAND IN ZONING AMENDMENT.** There hereby is attached hereto and made a part of this Ordinance, a legal description entitled "Exhibit C" which gives the boundaries of the described parcels of Land.
- SECTION 6. FINDING OF CONSISTENCY WITH THE GENERAL PLAN. The City Council hereby finds that the amendment established by this ordinance as herein described is compatible with the goals, objectives, policies and land use designation of the General Plan of the City of Morgan Hill. The Council further finds that the proposed amendment is required in order to serve the public health, convenience and general welfare as provided by Section 18.62.010 of the Morgan Hill Municipal Code.
- **SECTION 7.** An Expanded Initial Study has been prepared for this project. A Mitigated Negative Declaration will be filed.

City of Morgan Hill Ordinance No. 1671, New Series Page - 2 -

- **SECTION 8.** Severability. If any part of this Ordinance is held to be invalid or inapplicable to any situation by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance or the applicability of this Ordinance to other situations.
- **SECTION 9.** Effective Date; Publication. This Ordinance shall take effect from and after thirty (30) days after the date of its adoption. The City Clerk is hereby directed to publish this ordinance pursuant to §36933 of the Government Code.

The foregoing ordinance was introduced at the regular meeting of the City Council of the City of Morgan Hill held on the 7^{th} Day of April 2004, and was finally adopted at a regular meeting of said Council on the 21^{st} Day of April 2004, and said ordinance was duly passed and adopted in accordance with law by the following vote:

AYES: NOES: ABSTAIN: ABSENT:	COUNCIL MEMBERS: COUNCIL MEMBERS: COUNCIL MEMBERS: COUNCIL MEMBERS:	
ATTEST:		APPROVED:
Irma Torrez	, City Clerk	Dennis Kennedy, Mayor
	⊗ <u>CERTIFICATE O</u>	F THE CITY CLERK 08
CALIFORN No. 1671, Ne	IA, do hereby certify that the for	K OF THE CITY OF MORGAN HILL, egoing is a true and correct copy of Ordinance puncil of the City of Morgan Hill, California at pril 2004.

WITNESS MY HAND AND THE SEAL OF THE CITY OF MORGAN HILL.

DATE:______

IRMA TORREZ, City Clerk

Submitted for Approval: April 21, 2004

CITY OF MORGAN HILL SPECIAL CITY COUNCIL MEETING MINUTES – APRIL 7, 2004

CALL TO ORDER

Mayor Kennedy called the special meeting to order at 6:00 p.m.

ROLL CALL ATTENDANCE

Present: Council Members Carr, Chang, Sellers, Tate and Mayor Kennedy

DECLARATION OF POSTING OF AGENDA

City Clerk Torrez certified that the meeting's agenda was duly noticed and posted in accordance with Government Code 54954.2.

PUBLIC COMMENT

Mayor Kennedy opened the floor to public comments for items not appearing on this evening's agenda. No comments were offered.

CLOSED SESSION:

City Attorney Leichter announced the following closed session item:

1.

CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION

Legal Authority: Government Code section 54956.9(a)

Case Name: Hacienda Valley Mobile Estates v. City of Morgan Hill Case Numbers: Santa Clara Superior Court, Case No. CV 80-7708;

Ninth Circuit Court of Appeal, Case No. 02-15986

OPPORTUNITY FOR PUBLIC COMMENT

Mayor Kennedy opened the Closed Session item to public comment. No comments were offered.

ADJOURN TO CLOSED SESSION

Mayor Kennedy adjourned the meeting to Closed Session at 6:03 p.m.

RECONVENE

Mayor/Chairman Kennedy reconvened the meeting at 7:03 p.m.

City of Morgan Hill Special City Council Meeting Minutes – April 7, 2004 Page - 2 –

CLOSED SESSION ANNOUNCEMENT

City Attorney Leichter announced that no reportable action was taken in closed session.

ADJOURNMENT

There being no further business, Mayor Kennedy adjourned the special meeting at 7:05 p.m.

IRMA TORREZ, CITY CLERK

MINUTES RECORDED AND PREPARED BY:

AGENDA ITEM #_24___

Submitted for Approval: April 21, 2004

CITY OF MORGAN HILL SPECIAL CITY COUNCIL MEETING MINUTES – APRIL 14, 2004

CALL TO ORDER

Mayor Kennedy called the special meeting to order at 5:00 p.m.

ROLL CALL ATTENDANCE

Present: Council Members Carr, Chang, Sellers, Tate and Mayor Kennedy

DECLARATION OF POSTING OF AGENDA

The meeting's agenda was duly noticed and posted in accordance with Government Code 54954.2.

PUBLIC COMMENT

Mayor Kennedy opened the floor to public comments for items not appearing on this evening's agenda. No comments were offered.

City Council Action

1. TOUR OF AQUATICS CENTER CONSTRUCTION SITE

The City Council took a tour of the aquatics center complex that is under construction.

Action: No Action Taken

FUTURE COUNCIL-INITIATED AGENDA ITEMS

No items were identified.

ADJOURNMENT

There being no further business, Mayor Kennedy adjourned the special meeting at 5:45 p.m.

MINUTES RECORDED AND PREPARED BY: IRMA TORREZ, CITY CLERK

AGENDA ITEM #__25__

Submitted for Approval: April 21, 2004

CITY OF MORGAN HILL SPECIAL CITY COUNCIL MEETING MINUTES – APRIL 14, 2004

CALL TO ORDER

Mayor Kennedy called the special meeting to order at 6:00 p.m.

ROLL CALL ATTENDANCE

Present: Council Members Carr, Chang, Sellers, Tate and Mayor Kennedy

DECLARATION OF POSTING OF AGENDA

City Clerk Torrez certified that the meeting's agenda was duly noticed and posted in accordance with Government Code 54954.2.

PUBLIC COMMENT

Mayor Kennedy opened the floor to public comments for items not appearing on this evening's agenda. No comments were offered.

City Council

CONSENT CALENDAR:

Action: On a motion by Mayor Pro Tempore Sellers and seconded by Council Member Carr, the City Council unanimously (5-0), Approved Consent Calendar Item 1, as follows:

1. <u>APPROVAL OF INSTALLATION OF PERCHLORATE REMOVAL SYSTEM FOR NORDSTROM WELL FOR SUMMER OF 2004</u>

Action: Authorized Issuance of Purchase Order to US Filter in the Amount of \$158,082.

FUTURE COUNCIL-INITIATED AGENDA ITEMS

No items were identified.

ADJOURNMENT

There being no further business, Mayor Kennedy adjourned the special meeting at 6:03 p.m.

MINUTES RECORDED AND PREPARED BY:

IRMA TO	RREZ, CITY	CLERK	

Submitted for Approval: April 21, 2004

CITY OF MORGAN HILL JOINT SPECIAL AND REGULAR CITY COUNCIL AND SPECIAL REDEVELOPMENT AGENCY MEETING MINUTES – APRIL 7, 2004

CALL TO ORDER

Mayor/Chairman Kennedy called the special meeting to order at 5:02 p.m.

ROLL CALL ATTENDANCE

Present: Council/Agency Members Carr, Sellers and Mayor/Chairman Kennedy

Late: Council/Agency Members Tate (arrived at 5:03 p.m.) and Chang (arrived at 5:30 p.m.)

DECLARATION OF POSTING OF AGENDA

City Clerk/Agency Secretary Torrez certified that the meeting's agenda was duly noticed and posted in accordance with Government Code 54954.2.

Redevelopment Agency Action

WORKSHOP:

1. ROYAL COURT HOUSING PROJECT WORKSHOP

Director of Business Assistance and Housing Services Toy presented the staff report, requesting direction from the Agency on density, site plan and phasing of the project. He indicated that the issue is whether the Royal Court Apartments should be retained and incorporated into the project or demolished, proceeding with the project as proposed under Measure P. He noted that in December 2002, the Council approved a concept for the project, and on May 2003, the Board approved a loan with South County Housing. At that time, the Board indicated that it would like to see a higher density proposal. When the project was presented to the Planning Commission, they recommended that the project have a commercial presence along Monterey Road. He informed the Board that the applicant submitted an application under Measure P for 52 apartment units, 16 townhomes and a 5,000 square foot commercial building with 6 rental units above it. He stated that a historical survey was conducted for the site and that it was found that the Royal Court Apartments was a precursor to motels as a motor court and that there is a historical significance to this.

Agency Member Tate felt that the community should have a say whether they believe the Royal Court Apartments has a historical significance. He did not believe that anyone would believe there was a historical significance to the building.

Vice-chairman Sellers inquired whether the community could determine the environmental impact under CEQA.

City of Morgan Hill Joint Special & Regular City Council and Special Redevelopment Agency Meeting Minutes – April 7, 2004 Page - 2 –

Associate Planner Tolentino indicated that the buildings have been identified as being of historical significance as a motor court based on the year that the motel was built. She felt that input from the community is important. However, by law, the building needs to be reviewed under CEQA regulations as the building has not been altered. She indicated that the City could adopt a mitigated negative declaration and mitigation measures that would reduce the impacts to a level of insignificance by maintaining the building on site or relocating it to another site along Monterey Road so that it remains available for use. Should the City wish to demolish the building, the City would need to conduct an environmental impact report to identify and adopt overriding considerations.

Vice-chairman Sellers felt that the City may have latitude once the relevance of the building has been determined.

Jan Lindenhal indicated that when the results of the historical significance were presented, South County Housing project team looked at the viability of moving the buildings to another site. This would result in the purchase of a site with enough depth so that the buildings could be relocated in their same configuration on Monterey Road. It was estimated that it would cost a minimum of \$1.5 million to purchase a site, relocate and renovate the buildings. Also, studied was how the 10 units would function. Although the project could stand on its own and operate as 10 affordable studio apartments, the \$1.5 million dollars would not be recuperated. She did not believe that this would be a viable option. Reviewed were two alternatives to reuse the buildings on site with the intention of using them as residential units. Another option discussed was whether or not they could be renovated into commercial space. It was felt that the size of the units and the fact that there is not a lot of visibility from Monterey Road would not make them viable from a commercial use stand point. She indicated that assuming the 10 units would not function well as commercial space; it would result in a 56 unit residential project. This would result in a lower Agency contribution, overall, to the project, including the rehabilitation of the existing buildings versus the original scenario. As residential, all costs are tax eligible and there would be rental income from the 10 units. However, there is a challenge associated with the rehab of the 10 units as you do not know what you will find with old buildings.

Chairman Kennedy inquired whether the existing units could be left as is and build the project around it.

Ms. Lindenhal indicated that the units were in poor condition, noting that they are still being rented and occupied today as marginal units. Reusing the buildings and maintaining them as residential would lower the projected Agency contribution by approximately \$700,000 because you would not incorporate a commercial component that does not generate income from a financing stand point. However, there is a potential cost exposure associated with rehabilitating the buildings. Another potential concern is the streetscape and how it is made to work. She said that it is proposed to have a three story building adjacent to one story structures.

Chairman Kennedy felt that there may be a design solution that would be less of a contrast with the existing historical buildings, resulting in the loss of a few units.

City of Morgan Hill Joint Special & Regular City Council and Special Redevelopment Agency Meeting Minutes – April 7, 2004 Page - 3 –

Ms. Lindenhal informed the Council that one design resulted in siting residential units all the way up to Monterey Road as it did not make sense to do so in this location. Analyzing the design made it clear that the commercial component of the project, although it has an advantage from a streetscape stand point, would require a larger Agency investment because lenders do not underwrite commercial income. In one design alternative, you would lose the commercial component unless one of the buildings is modified. She addressed a third scenario that would incorporate a mixed use building along Monterey Road with 5,000 square feet of commercial space, and 16 townhomes along Del Monte Avenue consisting of three story structures. A two story building is proposed to help screen the project from Monterey Road. This design would assume that the buildings are relocated or that the findings can be made that there is no historical significance to the buildings.

David Conroy, project architect, stated that the economics of incorporating a commercial use would drive the costs up higher. He indicated that the project is just meeting City parking standards and that adding commercial would increase the number of required parking spaces. He said that the incorporation of a commercial building would raise other questions about access to parking.

Ms. Lindenhal said that given the way the report was written and its findings, it seems that reasonable experts on the issue might disagree about the significance of the buildings. She informed the Board that a second opinion was commissioned. She recommended that the project proceed with a live/work townhome along Monterey Road that would have a commercial look at the ground floor with residential above as this would increase the viability of the project. Assuming that you can get enough of a commercial look, this would be an alternative to consider that improves the financial viability of this option. However, the City would need to make findings that the buildings were not of historical significance or make findings of overriding concerns through an EIR process, adding cost to the process.

Agency Member Tate did not believe that the buildings were of historical significance and recommended that the historical significance of the buildings be discussed with the Historical Society.

Mr. Toy informed the Council that he spoke with Gloria Pariseau with the Historical Society. She recommended that the City conduct a historical photo survey similar to what was done to the house behind Sinola's Restaurant.

Ms. Lindenhal indicated that 56 units would be proposed if the 10 units are maintained, placing a three story building along Monterey Road. A 48 unit residential project would result if a two story is designed with commercial on the ground floor.

Mr. Conroy felt that the existing buildings would be a challenge to deal with based on their orientation to the street and their proximity to each other.

Agency Member Carr inquired whether Ms. Lindenhal investigated whether the adjacent parcels could be acquired.

Ms. Lindenhal indicated that David Heindal, the project manager, has met repeatedly with the adjacent property owners to try to understand the parameters within which they might be willing to sell or agree

City of Morgan Hill Joint Special & Regular City Council and Special Redevelopment Agency Meeting Minutes – April 7, 2004 Page - 4 –

to a land swap. She stated that Mr. Heindal has exhausted every creative option that would make sense to the property owners. She said that one property owner is requesting 45% above market value for his property.

Mr. Heindel indicated that one property owner did not want to sell his property but that he may be willing to trade property.

Mr. Toy said that there is a commercial building adjacent to this project. If the City was to purchase the property for \$1.7 - \$1.9 million, you would only gain a sliver of land.

Chairman Kennedy inquired as to the most important issues that would make the project work or what constraints the Board has placed on the project (e.g., fronting commercial).

Ms. Lindenhal concurred that placing commercial in front of the project is a constraint as it does not help the overall financing of the project. Including commercial would not be as financially beneficial in terms of the overall Agency contribution versus an all residential project.

Mr. Toy informed the Board that it would be difficult to lease 5,000 square feet of commercial along Monterey Road.

Chairman Kennedy recommended that residential be developed toward the rear as it would provide the much needed affordable residential units, indicating that what happens in front would be secondary to this. He stated that he would support residential in front. He noted that there is a hodge podge of commercial-residential in this area but that he did not know if the City would be able to fix this situation as there are property owners who do not want to sell their properties.

Agency Member Chang entered and was seated.

Vice-chair Sellers noted that the Via Ciolino project had an existing business surrounded by commercial north and south. At Jasmine Square, there is office commercial surrounding the property. He said that he was not as willing to give up on the use of the existing building as there is some historical significance to the site. He felt that the commercial viability is minimal, concurring that there is a hodge podge of uses in the area. Maintaining the site for residential has some precedent. He recommended that the design be such that it minimizes the impacts of a three story design. He inquired whether the residential could be opened up, making the project more accessible. He noted that Wright Avenue is a well traveled road and is one of the highest crime streets in town. He was anxious about having this project become another concern in terms of crime and safety for individuals who would reside in the project. Having an open parkway would provide a sense of being a part of the community. An open design would deter undesirable activities from taking place. He felt that it would be an exciting potential to include the rehabilitation of the buildings to make it an attractive residential project, tying the development to Monterey Road versus sequestering it onto Wright and Del Monte Avenues. He stated that he was not as concerned about losing a few units to accommodate such a design. He noted that there were 3-4 units that are currently for sale on Wright Avenue and that there may be an opportunity to acquire these properties. Doing so might reduce crime and other concerns taking place in this area.

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Chairman Kennedy felt that it would be a good idea to acquire some of the problem properties as there is a lot of crime associated with the units South County Housing has been trying to acquire. If the City could acquire these properties and have management eliminate some of the crime problems taking place, he would support the idea. He recommended that the parkway concept be retained. He further recommended the design of a single story commercial unit. He felt that the Shell Station may be willing to acquire property to construct a mini mart facility or someone else may be willing to utilize a single story commercial unit.

Agency Member Tate inquired as to the urgency of the action that needs to take place. He inquired whether the project could start on Del Monte, leaving options open.

Ms. Lindenhal said that she would like to proceed with Phase 1, the for-sale townhomes along Del Monte Avenue. She indicated that it would take approximately 24-months to line up the financing for the rental project. She stated that she has 4-6 months to come back with other alternative/scenarios to review as well as the financial implications of these. One scenario that may have some merit is a livework concept that would achieve economic viability and a mixed use.

Chairman Kennedy stated that he was not tied to the idea of a mixed use concept. He would support having a design featuring the Royal Park Apartment buildings, adding more units similar to these units.

Vice-chairman Sellers said that he would be willing to discuss other options with South County Housing.

Agency Member Carr said that he would hate to lose the commercial portion of the project as he felt that this area was perfect for mixed use. He supported the plaza concept.

Chairman Kennedy recommended that the existing units be retained, making this project an all residential project.

Ms. Lindenhal indicated that the townhouse portion could proceed with a tentative map that would create a remainder parcel. She wanted to receive a sense from the Agency about the importance of preserving the buildings or proceeding with the EIR process.

Action: It was the consensus of the Agency Board that the project proceeds with Phase I.

Mr. Toy indicated that it appears that the Agency has agreed to allow the project to proceed with Phase 1 and ask South County Housing staff to return with different concepts.

Chairman Kennedy recommended that staff contact the Historical Society and receive a written opinion on the historical significance of the buildings. Also, the Shell Station proprietor is to be contacted to see if they are interested in a commercial use on the adjacent site.

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Agency Member Tate requested that staff discuss this project with the adjacent neighbors to ascertain whether there are concerns associated with a townhome development. He felt that this project may require more exceptions than were approved for the Watsonville project and wanted to know in advance if there are any concerns.

Ms. Lindenhal noted that the project is being proposed as a one-lot condominium project. It is the entire lot that has to meet setbacks as opposed to each individual lot. You would still have the same deviations, but that there would not be the kinds of variances sought for the Watsonville Road site as they were all individual lots of record as opposed to one large parcel.

Director of Community Development Bischoff recommended that staff be allowed to quantify the exceptions before meeting with the adjacent neighbors.

Ms. Lindenhal indicated that deviation from the parking standards would result in a better site plan. She inquired whether the Agency would be supportive of this deviation. She stated that there is an issue with the townhome as they are rear loaded and that there is not sufficient depth to have driveway aprons. Therefore, there is an issue of making sure that there is surplus guest parking.

Agency Member Chang stated that she does not mind higher density but felt that providing adequate parking is the right thing to do. She did not want to see this become a second class project.

Mr. Conroy said that the City's parking standards for townhomes are about where they should be. However, it is in the affordable rental apartments that there would be a deviation in parking. He stated that he has not counted parking along Del Monte Avenue and that this would result in approximately 660 feet of frontage that would result in an additional 30 parking spaces.

Agency Member Chang did not believe that the City's current parking standards for townhomes/condominium were adequate.

Chairman Kennedy concurred that insufficient parking is a concern as the City ran across this concern with the Watsonville housing project as well as other projects.

City Council and Redevelopment Agency Action

CLOSED SESSIONS:

City Attorney/Agency Counsel Leichter announced the below listed closed session items:

CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION

Authority: Government Code Sections 54956.9(b) & (c)

Number of Potential Cases:

City of Morgan Hill

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CONFERENCE WITH LEGAL COUNSEL (POTENTIAL LITIGATION) & CONFERENCE WITH REAL PROPERTY NEGOTIATORS

Legal Authority: Government Code 54956.8 & 54946.9(c)

Property: APN 825-06-002, 003, 029, 030; 36.6 acres (Railroad/Maple -

Butterfield Retention Basin Site)

Negotiating Parties:

For City: City Manager; Public Works Director; City Attorney; Gale Conner,

special counsel

For Property Owners: Costa Family Partners

Closed Session Topic/Under Negotiation: Potential Litigation & Price and Terms of Payment

3.

CONFERENCE WITH REAL PROPERTY NEGOTIATORS

Legal Authority: Government Code 54956.8

Property: 215 Tennant Avenue, APN: 817-04-002

Negotiating Parties:

For City: City Manager, Director of Public Works, City Attorney, and Attorney

Gale Connor

For Property Owners: Robert and Teresita Carrasco and Bruce Tichinin

Closed Session Topic/Under Negotiation: Price and Terms of Payment

4.

CONFERENCE WITH REAL PROPERTY NEGOTIATORS

Legal Authority: Government Code 54956.8

Property: 95 Tennant Avenue, APN: 817-04-006

Negotiating Parties:

For City: City Manager, Director of Public Works, City Attorney, and Attorney

Gale Connor

For Property Owners: Marko and Klara Gera
Closed Session Topic/Under Negotiation: Price and Terms of Payment

5.

CONFERENCE WITH REAL PROPERTY NEGOTIATORS

Legal Authority: Government Code 54956.8

Property: 145 Tennant Avenue, APN: 817-04-008

Negotiating Parties:

For City: City Manager, Director of Public Works, City Attorney, and Attorney

Gale Connor

For Property Owners: Joseph Hernandez, as trustee; et al Closed Session Topic/Under Negotiation: Price and Terms of Payment

6.

CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION

Authority: Government Code section 54954.9(c)

Case Name: City of Morgan Hill v. VBN Corporation and ABSG Consulting, Inc.;

Santa Clara County Superior Court, Case Number: 1-03-CV-008266.

Attendees: City Manager, City Attorney

7.

EXISTING LITIGATION:

Legal Authority: Government Code 54956.9(a)

Case Title: Bob Lynch Ford, Inc. v. Timothy Paulus, et al

Case Name/No.: Santa Clara County Superior Court Case No. CV 001657

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Attendees:

City Manager, City Attorney

8.

PUBLIC EMPLOYEE PERFORMANCE EVALUATION

Legal Authority Government Code 54957

Public Employee Performance Evaluation: City Manager

Attendees: City Council, City Manager

OPPORTUNITY FOR PUBLIC COMMENT

Mayor/Chairman Kennedy opened the Closed Session items to public comment. No comments were offered.

ADJOURN TO CLOSED SESSION

Mayor/Chairman Kennedy adjourned the meeting to Closed Session at 6:03 p.m.

RECONVENE

Mayor/Chairman Kennedy reconvened the meeting at 7:03 p.m.

CLOSED SESSION ANNOUNCEMENT

City Attorney/Agency Counsel Leichter announced that no reportable action was taken in closed session, indicating that the closed session items were continued to the conclusion of the agenda.

SILENT INVOCATION

Mayor/Chairman Kennedy announced that the community recently lost three key citizens and requested that they be remembered: Bonnie Leonetti, Mas Minami, and Marie Skinner.

PLEDGE OF ALLEGIANCE

At the invitation of Mayor/Chairman Kennedy, former Council Member John Varela led the Pledge of Allegiance.

CITY COUNCIL REPORT

Council Member Tate addressed the recently held election relating to Measure B, a ballot measure that would have extended and slightly raised a parcel tax that supported the operation of the library. He said that this ballot measure did well, achieving 61% of the vote, 5% more than was received on the Gavilan ballot measure. However, 61% is not a high enough percentage for a fiscal measure to pass as 67% is needed. As the ballot measure failed, the Library will need to make cuts. He stated that the quality of service for the library is to be maintained but that there may be cut backs in library hours and programs being phased in at the end of this year. He said that the City is looking at options as the County cannot

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go out again and seek voter support of another ballot measure within a year. He appreciated the great support that the community of Morgan Hill demonstrated. He stated that the Council has committed that by the end of June 2004, it will have a plan in place for a site and how the new library is to be funded. He indicated that the City is at a critical point in this process. He stated that the City has been unsuccessful twice in attaining State Proposition 14 bond funding for a new library. Therefore, the City is looking at taking on the construction of a new library and moving forward should the City not receive the third round of bond funding. The City is now looking at a second site, the Sunsweet site located between Third and Fourth Streets, east of Monterey Road. He felt that this may be a viable location. He stated that the Council wants to receive input of where the community believes the library should be constructed. He invited individuals to attend the Library Commission meeting to be held next Monday, April 12, 2004 as presentations will be made on the two designs: the site behind the civic center and the downtown site. There will also be discussions on the approaches for funding for the two different sites. He stated that the May issue of the City Vision, the City's newsletter, will include a four page supplement that describes the library site and seeks feedback. This is an alternative way for citizens to submit their library site preference.

CITY COUNCIL SUB-COMMITTEE REPORT

CITY MANAGER REPORT

City Manager Tewes reported on the contaminate perchlorate that has affected much of South County and some of the City's municipal drinking water wells. He stated that at the Council's direction, staff has been testing the level of perchlorate, if any, in City wells. He reported that the results at the end of March were that all of the City's wells were at the non detect levels. He said that the regulatory framework for perchlorate is changing and that the State of California has recently set the public health goal and action level at 6 parts per billion. At the request of the Council, staff has invited David Ting with the Office of Environmental Health Hazard Assessment and that Dr. Ting will be at the Council's April 21 meeting to make a presentation about the scientific studies that led to conclusions and to answer Council questions.

CITY ATTORNEY REPORT

City Attorney Leichter stated that she did not have a report to present this evening.

OTHER REPORTS

PUBLIC COMMENT

Mayor/Chairman Kennedy opened the floor to public comment for items not appearing on this evening's agenda. No comments were offered.

City Council Action

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CONSENT CALENDAR:

Council Services and Records Manger Torrez requested that item 3 and Council Member Tate requested that Item 15 be removed from the Consent Calendar.

Action: On a motion by Council Member Chang and seconded by Mayor Pro Tempore Sellers, the City Council unanimously (5-0) <u>Approved</u> Consent Calendar Items 2, 4-14 and 16, as follows:

2. GENERAL FUND RESERVE INVESTMENT GUIDELINES

<u>Action: Referred</u> Preliminary "General Fund Reserve Investment Guidelines" to the Economic Development Committee for Their Consideration.

4. <u>COMMUNITY & CULTURAL CENTER PROPOSED USE POLICIES FOR SENIOR</u> AND YOUTH ACTIVITIES AND NON-PROFIT GROUPS

<u>Action:</u> <u>Directed</u> Staff to Incorporate the Use Policies and Rates for Senior, Youth, and Non-Profit Group Use at the Community and Cultural Center.

5. <u>APPROVE PURCHASE ORDERS FOR THE FURNISHINGS, FIXTURES, AND EQUIPMENT (FF&E) FOR THE NEW POLICE FACILITY</u>

<u>Action:</u> <u>Authorized</u> the City Manager to Approve a Purchase Order in the Amount of \$28,030.87 to Verizon Telephone Company for the Installation of an Upgraded Phone System from Furniture, Fixtures and Equipment (FF&E) at the New Police Facility.

6. REIMBURSEMENT FOR UNDERGROUNDING OF OVERHEAD UTILITIES BY SHAW DEVELOPMENT (AKA: SHAW REAL ESTATE, INC.)

<u>Action:</u> 1) <u>Appropriated</u> \$245,155 from the Unappropriated Underground Utility Fund Balance (350); and 2) <u>Approved</u> Reimbursement Agreement; Thereby Approving Reimbursement of \$22,711 to Developer, and Payment of \$222,444 to PG&E for Undergrounding Overhead Utilities along the South Side of Dunne Avenue West of Walnut Grove.

7. <u>ACCEPTANCE OF MODIFICATIONS TO LIFT STATION B SEWAGE PUMP STATION</u>

<u>Action:</u> 1) <u>Accepted</u> as Complete the Modifications to Lift Station B Sewage Pump Station in the Final Amount of \$517,281.16; and 2) <u>Directed</u> the City Clerk to File the Notice of Completion with the County Recorder's Office.

8. <u>AWARD OF PROFESSIONAL SERVICES CONTRACT FOR LIFT STATION G</u> <u>SEWAGE PUMP STATION</u>

<u>Action:</u> <u>Authorized</u> the City Manager to Execute a Consultant Agreement for Design and Preparation of Plans, Specifications and Estimates for Lift Station G Sewage Pump Station with MH Engineering, Subject to Approval by the City Attorney.

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9. <u>COUNCIL RESOLUTION SUPPORTING GRANT FUNDING FOR INSTALLATION</u> <u>OF BICYCLE LOOP DETECTORS AT VARIOUS INTERSECTIONS ALONG</u> <u>MONTEREY ROAD</u> – Resolution No. 5776

<u>Action: Approved</u> Resolution No. 5776, Supporting Grant Funding for the Installation of Bicycle Loop Detectors at Various Intersections Along Monterey Road, Between Watsonville Road and Burnett Avenue.

10. <u>INCREASE CUSTODIAL STAFF BY .5 POSITIONS TO STAFF THE AQUATICS CENTER</u>

<u>Action:</u> <u>Added</u> an Additional .5 Position in the Building and Maintenance Division to Cover Staffing Needs for the Aquatics Center.

11. ADOPT ORDINANCE NO. 1661, NEW SERIES

Action: Waived the Reading, and Adopted Ordinance No. 1661, New Series, and Declared That Said Title, Which Appears on the Public Agenda, Shall be Determined to Have Been Read by Title and Further Reading Waived; Title as Follows: AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING AN AMENDMENT TO ORDINANCE NO. 1601, NEW SERIES, TO ALLOW EXPANSION OF THE EXISTING RESIDENTIAL PLANNED DEVELOPMENT TO BE LOCATED ON THE NORTH AND SOUTH SIDES OF EAST CENTRAL AVENUE, TO R-1 (7000)/RPD. THE AMENDMENT INCLUDES THE ADOPTION OF A PRECISE DEVELOPMENT PLAN FOR THE 86-LOT, 28.345-ACRE RPD (APNs 726-20-003 & 726-28-048 through 052).

12. ADOPT ORDINANCE NO. 1662, NEW SERIES

<u>Action: Waived</u> the Reading, and <u>Adopted</u> Ordinance No. 1662, New Series, and <u>Declared</u> That Said Title, Which Appears on the Public Agenda, Shall be Determined to Have Been Read by Title and Further Reading Waived; Title as Follows: AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING A DEVELOPMENT AGREEMENT, DA-03-15, FOR 26 LOTS LOCATED ON THE SOUTH SIDE OF EAST CENTRAL AVENUE NORTH OF EAST MAIN AVENUE, FOR MP 02-19: E. CENTRAL - WARMINGTON (SOUTH) (APN 726-20-003).

13. ADOPT ORDINANCE NO. 1663, NEW SERIES

<u>Action: Waived</u> the Reading, and <u>Adopted</u> Ordinance No. 1663, New Series, and <u>Declared</u> That Said Title, Which Appears on the Public Agenda, Shall be Determined to Have Been Read by Title and Further Reading Waived; Title as Follows: AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING A RESIDENTIAL PLANNED DEVELOPMENT AND PRECISE DEVELOPMENT PLAN FOR A 16-UNIT SINGLE-FAMILY PROJECT LOCATED ON THE NORTH SIDE OF BARRETT AVENUE, APPROXIMATELY 70 FEET WEST OF HIGHWAY 101. (APN 817-10-002).

14. ADOPT ORDINANCE NO. 1664, NEW SERIES

<u>Action: Waived</u> the Reading, and <u>Adopted</u> Ordinance No. 1664, New Series, and <u>Declared</u> That Said Title, Which Appears on the Public Agenda, Shall be Determined to Have Been Read by

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Title and Further Reading Waived; Title as Follows: AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING A DEVELOPMENT AGREEMENT FOR APPLICATION MP-02-20: BARRETT-DITRI (APN 817-10-002).

- 16. MINUTES FOR SPECIAL CITY COUNCIL MEETING OF MARCH 24, 2004

 Action: Approved the Minutes as submitted
- 3. MARCH 2, 2004 SPECIAL MUNICIPAL ELECTION CERTIFIED STATEMENT OF ELECTION RESULTS Resolution No. 5775

Council Services & Records Manager Torrez informed the Council that before the Council is a revised Resolution that incorporates the actual vote on ballot Measure C, the City's Residential Development Control System. She advised the Council that the numbers are slightly off. She is working with the Registrar of Voters to ensure that the correct votes are incorporated in the resolution. She requested that she be given the flexibility to ensure that the votes are correctly reflected in the resolution.

Action:

On a motion by Mayor Pro Tempore Sellers and seconded by Council Member Tate, the City Council unanimously (5-0) <u>Adopted</u> amended Resolution No. 5775, Reciting the Facts of the Special Municipal Election of March 2, 2004 Relating to the Residential Development Control System (RDCS) Ballot Measure C, authorizing the City Clerk to incorporate the final votes into the resolution.

Council Member Tate expressed his appreciation to the community for its support of Measure C, noting that there was no opposition to the Measure.

15. MINUTES FOR SPECIAL CITY COUNCIL MEETING OF MARCH 17, 2004

Action:

On a motion by Mayor Pro Tempore Sellers and seconded by Council Member Chang, the City Council, on a 4-0-1 vote with Council Member Tate abstaining, <u>Approved</u> the Minutes as submitted

City Council Action (Continued)

CONSENT CALENDAR:

<u>Action:</u> On a motion by Council Member Chang and seconded by Mayor Pro Tempore Sellers, the City Council unanimously (5-0) <u>Approved</u> Consent Calendar Item 17, as follows:

17. <u>ACCEPTANCE OF SUBDIVISION IMPROVEMENTS FOR TRACT 9345, TROVARE PHASE III – Resolution No. 5777</u>

<u>Action:</u> 1) <u>Adopted</u> Resolution No. 5777, Accepting the Subdivision Improvements Included in Tract 9345, Commonly Known as Trovare Phase II; and 2) <u>Directed</u> the City Clerk to File a Notice of Completion with the County Recorder's Office.

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Redevelopment Agency Action

CONSENT CALENDAR:

<u>Action:</u> On a motion by Agency Member Chang and seconded by Vice-chairman Sellers, the Agency Board unanimously (5-0) <u>Approved</u> Consent Calendar Item 18, as follows:

18. LEASE WITH THE CALIFORNIA YOUTH SOCCER ASSOCIATION (CYSA)

<u>Action:</u> 1) <u>Approved</u> a New Lease Agreement with CYSA for the Property Located at 16545 Murphy Avenue; and 2) <u>Directed</u> the Executive Director to do Everything Necessary and Appropriate to Execute the New Lease Agreement.

City Council and Redevelopment Agency Action

CONSENT CALENDAR:

Action: On a motion by Council/Agency Member Chang and seconded by Mayor Pro

Tempore/Vice-chair Sellers, the City Council/Agency Board unanimously (5-0) <u>Approved</u>

Consent Calendar Item 19, as follows:

19. MINUTES OF JOINT REGULAR REDEVELOPMENT AGENCY AND SPECIAL CITY COUNCIL MEETING OF MARCH 24, 2004

Action: Approved the Minutes as submitted

Redevelopment Agency Action

OTHER BUSINESS:

20. <u>CHAMBER OF COMMERCE QUARTERLY ECONOMIC DEVELOPMENT PARTNERSHIP (EDP) REPORT</u>

Director of Business Assistance and Housing Services Toy presented the staff report.

Chairman Kennedy opened the floor to public comment.

John Varela indicated that two members of the Chamber's Economic Development team would inform the Agency what its Chamber investment has been and to the economic development partnership.

Bob Martin, Director of Marketing, thanked the Agency for funding this program. He stated that the Chamber is off and running and would be presenting its first quarter obligatory report on where the Chamber is. He indicated that the Chamber's Economic Development Committee (EDC) has developed the partnership with the funding provided by the City as well as funding from in kind service and cash that the Chamber has provided in order to attract new businesses to Morgan Hill, support existing

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businesses within the community, and to promote/market the overall welfare of the city, its citizens and its enterprises. He noted that the City funded \$125,000 and that the Chamber has matched this amount. The EDC is operating against a budget of \$295,000. The EDC is looking for private business partnerships. He informed the Board that he, John Varela, and members of the overall community who volunteer on the EDC are actively involved in three prongs to their mission: 1) engage and pursue immediate opportunities as they relate to business attraction; 2) augment the City's and Chamber's marketing plan and create objectives and tactics that would meet the shareholders goals; and 3) develop a program that would encourage and develop funds from private enterprise partners. He addressed the 2004 operating budget and activities. He indicated that the EDC is actively engaged with businesses who are interested in partnering and providing some funding.

Mr. Varela addressed attraction and retention. He indicated that the EDC sent out approximately 1,500 business surveys last summer. He stated that approximately 200 of these surveys were returned. The EDC will be contacting these individuals as well as the businesses who did not respond. Since the Chamber launched the partnership agreement in March, he has made six presentations and that EDC expects a tremendous response to the partnership agreement. He said that the EDC expects to spend more time with Agency Members to explain how both parties can work together.

Alex Kennett, EDC Chair, indicated that the EDC is up and running and that a quarterly report has been presented to demonstrate what the City's investment has accomplished. A goal is to make this operation completely self sufficient so that the City will not have to provide financial support in the future.

Chairman Kennedy indicated that the Santa Clara County Cities Association has appointed a subcommittee of its members to focus on economic development as well, noting that he is serving on this committee. He said that this committee is looking for some business leaders to be a part of this effort. He stated that he would like to meet with the Chamber's EDC to see how efforts can be coordinated

No further comments were offered

Action: No Action Taken.

City Council and Redevelopment Agency Action

PUBLIC HEARINGS:

21. WATSONVILLE ROAD TEACHER HOUSING PROJECT Resolution Nos. 5778 and MHRA-250

Business Assistance and Housing Services Manager Maskell presented the staff report.

Mayor/Chairman Kennedy opened the public hearing. No comments being offered, the public hearing was closed.

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Acting as City Council:

Action: On a motion by Council Member Tate and seconded by Mayor Pro Tempore Sellers, the

City Council unanimously (5-0) Adopted Resolution No. 5778, Approving Disposition

and Development Agreement (DDA) and Loan Agreement.

Acting as Redevelopment Agency:

<u>Action:</u> On a motion by Agency Member Tate and seconded by Vice-chairman Sellers, the Agency

Board unanimously (5-0) Adopted Resolution MHRA-250, Approving Disposition and

Development Agreement (DDA) and Loan Agreement.

Action: On a motion by Agency Member Tate and seconded by Vice-chairman Sellers, the Agency

Board unanimously (5-0) <u>Authorized</u> the Executive Director to do Everything Necessary

to Execute and Implement the Agreements.

City Council Action

PUBLIC HEARINGS:

22. ZONING AMENDMENT, ZA-03-10; DEVELOPMENT AGREEMENT, DA-03-06: WATSONVILLE-SOUTH COUNTY HOUSING (Continued from 3/24/04) – Ordinance Nos. 1666 and 1667, New Series

Director of Community Development Bischoff indicated that he would present the staff reports for items 22 and 23 as one staff report. He proceeded to present the staff report for both items.

Mayor Kennedy opened the public hearing. No comments being offered, the public hearing was closed.

Action: On a motion by Council Member Tate and seconded by Mayor Pro Tempore Sellers, the

City Council unanimously (5-0) <u>Waived</u> the Reading in Full of Ordinance No. 1666, New

Series, the Zoning Amendment Ordinance.

Action: On a motion by Council Member Tate and seconded by Council Member Carr, the City

Council <u>Introduced</u> Ordinance No. 1666, New Series, by Title Only, as follows: AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING A ZONING AMENDMENT FROM R-2 3,500 TO R-2 3,500/RPD RESIDENTIAL PLANNED DEVELOPMENT OVERLAY AND ADOPTION OF A PRECISE DEVELOPMENT PLAN FOR A ONE ACRE PARCEL LOCATED ON THE NORTHWEST CORNER OF WATSONVILLE ROAD AND CALLE SUENO (APPLICATION ZA-03-10: WATSONVILLE – SOUTH COUNTY HOUSING APN 767-23-017), by roll call vote: AYES: Carr, Chang, Kennedy, Sellers, Tate; NOES: None; ABSTAIN: None; ABSENT: None.

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Action:

On a motion by Council Member Tate and seconded by Mayor Pro Tempore Seller, the City Council unanimously (5-0) <u>Waived</u> the Reading in Full of Ordinance No. 1667, New Series, the Development Agreement Ordinance.

Action:

On a motion by Council Member Tate and seconded by Mayor Pro Tempore Sellers, the City Council <u>Introduced</u> Ordinance No. 1667, New Series, by Title Only, as follows: AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING DEVELOPMENT AGREEMENT, DA 03-06 FOR MP 02-26: WATSONVILLE-SOUTH COUNTY HOUSING (APN 767-23-017), by roll call vote: AYES: Carr, Chang, Kennedy, Sellers, Tate; NOES: None; ABSTAIN: None; ABSENT: None.

23. <u>SUBDIVISION, SD-03-08: WATSONVILLE-SOUTH COUNTY HOUSING</u> – Resolution No. 5779

Director of Community Development Bischoff presented the staff report.

Mayor Kennedy opened the public hearing. No comments being offered, the public hearing was closed.

Action:

On a motion by Council Member Tate and seconded by Mayor Pro Tempore Sellers, the City Council unanimously (5-0) <u>Adopted</u> Resolution No. 5779, Approving the Subdivision.

24. <u>DEVELOPMENT AGREEMENT AMENDMENT DAA-00-12: EAST DUNNE-GREWAL</u> – Ordinance No. 1668, New Series

Council Member Chang indicated that she has a conflict of interest on this item. Therefore, she would recuse herself from this item and stepped out of the Council Chambers.

Director of Community Development Bischoff presented the staff report.

Mayor Kennedy opened the public hearing. No comments being offered, the public hearing was closed.

Action:

On a motion by Mayor Pro Tempore Sellers and seconded by Council Member Tate, the City Council, on a 4-0 vote with Council Member Chang absent, <u>Waived</u> the Reading in Full of Ordinance No. 1668, New Series, the Development Agreement Amendment Ordinance.

Action:

On a motion by Mayor Pro Tempore Sellers and seconded by Council Member Tate, the City Council <u>Introduced</u> Ordinance No. 1668, New Series, by Title Only, as follows: AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING AN AMENDMENT TO ORDINANCE NO. 1605, NEW SERIES, TO AMEND THE DEVELOPMENT AGREEMENT FOR APPLICATION MP-00-02: EAST DUNNE - GREWAL TO ALLOW FOR A FIFTEEN (15) MONTH

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EXTENSION OF TIME (APN 728-11-026), by roll call vote: AYES: Carr, Kennedy, Sellers, Tate; NOES: None; ABSTAIN: None; ABSENT: Chang.

Council Member Chang resumed her seat on the dias.

25. GENERAL PLAN AMENDMENT, GPA-04-01: WRIGHT-CITY OF MORGAN HILL/ZONING AMENDMENT, ZA-04-03: CITY OF MORGAN HILL-ZONING MAP CORRECTIONS – Resolution No. 5780 and Ordinance No. 1669, New Series

Director of Community Development Bischoff presented the staff report.

Mayor Kennedy indicated that the property owner/developer for the Watsonville site had previously expressed concern about the zoning for the property. He inquired whether the issues have been resolved.

Mr. Bischoff stated that he was not familiar with any discussions that the developer has had with the zoning.

Mayor Kennedy opened the public hearing. No comments being offered, the public hearing was closed.

- Action: On a motion by Council Member Tate and seconded by Mayor Pro Tempore Sellers, the City Council unanimously (5-0) Adopted Resolution No. 5780, Approving the General Plan Amendment.
- Action: On a motion by Council Member Tate and seconded by Mayor Pro Tempore Sellers, the City Council unanimously (5-0) <u>Waived</u> the Reading in Full of Ordinance No. 1669, New Series.
- Action:

 On a motion by Council Member Tate and seconded by Mayor Pro Tempore Sellers, the City Council Introduced Ordinance No. 1669, New Series, by Title Only, as follows: AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL AMENDING THE ZONING FOR 120 WRIGHT AVENUE, AN 8,240 SQUARE FOOT LOT FROM R1-7,000 TO R3 AND AMENDING THE ZONING FOR 4.3 ACRES OF AN 8.3 ACRE LOT LOCATED ON MONTEREY ROAD, APPROXIMATELY 700 FEET NORTH OF WATSONVILLE ROAD FROM R3 TO R2-3,500. (APN 764-14-003 & APN 767-23-016, ZA-04-03: CITY MORGAN HILL-ZONING MAP CORRECTIONS), by roll call vote: AYES: Carr, Chang, Kennedy, Sellers, Tate; NOES: None; ABSTAIN: None; ABSENT: None.

26. GENERAL PLAN AMENDMENT, GPA-03-02: LAND USE POLICY REQUIREMENT FOR SINGLE FAMILY HOUSING – Resolution No. 5781

Director of Community Development Bischoff presented the staff report.

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Mayor Kennedy opened the public hearing. No comments being offered, the public hearing was closed.

<u>Action:</u> On a motion by Council Member Tate and seconded by Mayor Pro Tempore Sellers, the City Council unanimously (5-0) <u>Adopted</u> Resolution No 5781, Approving General Plan Amendment.

27. <u>GENERAL PLAN AMENDMENT, GPA-03-10: MONTEREY-SOUTH COUNTY</u> HOUSING – *Resolution No. 5782*

Director of Community Development Bischoff presented the staff report.

Mayor Kennedy opened the public hearing. No comments being offered, the public hearing was closed.

Action: On a motion by Council Member Tate and seconded by Mayor Pro Tempore Sellers, the City Council unanimously (5-0) Approved the Mitigated Negative Declaration.

Action: On a motion by Council Member Tate and seconded by Mayor Pro Tempore Sellers, the City Council unanimously (5-0) Adopted Resolution No. 5782, Approving the General Plan Amendment.

28. GENERAL PLAN AMENDMENT, GPA-02-03/ ZONING AMENDMENT, ZA-02-08: BUTTERFIELD-MORGAN HILL REDEVELOPMENT AGENCY – COURTHOUSE – Resolution No. 5783 and Ordinance No. 1670, New Series

Director of Community Development Bischoff presented the staff report.

Mayor Kennedy opened the public hearing. No comments being offered, the public hearing was closed.

Action: On a motion by Council Member Tate and seconded by Mayor Pro Tempore Sellers, the City Council unanimously (5-0) Adopted Resolution No. 5783, Approving the General Plan Amendment.

Action: On a motion by Council Member Tate and seconded by Mayor Pro Tempore Sellers, the City Council unanimously (5-0) <u>Waived</u> the Reading in Full of Ordinance No. 1670, New Series.

On a motion by Council Member Tate and seconded by Mayor Pro Tempore Sellers, the City Council Introduced Ordinance No. 1670, New Series, by Title Only, as follows: AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING A ZONING AMENDMENT FROM MULTI FAMILY MEDIUM R-3 TO PUBLIC FACILITIES, PF FOR APPLICATION ZA-02-08: BUTTERFIELD-CITY OF MORGAN HILL REDEVELOPMENT AGENCY - COURT HOUSE (APN 726-12-006), by roll call vote: AYES: Carr, Chang, Kennedy, Sellers, Tate; NOES: None; ABSTAIN: None; ABSENT: None.

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29. GENERAL PLAN AMENDMENT, GPA-02-04/ZONING AMENDMENT, ZA-02-10: EDMUNDSON-MORGAN HILL REDEVELOPMENT AGENCY INDOOR RECREATION CENTER (IRC) – Resolution No. 5784 and Ordinance No. 1671, New Series

Director of Community Development Bischoff presented the staff report.

Mayor Kennedy opened the public hearing. No comments being offered, the public hearing was closed.

<u>Action:</u> On a motion by Mayor Pro Tempore Sellers and seconded by Council Member Chang, City Council unanimously (5-0) <u>Adopted</u> the Mitigated Negative Declaration/Mitigation Monitoring Program.

Action: On a motion by Mayor Pro Tempore Sellers and seconded by Council Member Chang, the City Council unanimously (5-0) Adopted Resolution No. 5784, Approving the General Plan Amendment.

Action: On a motion by Mayor Pro Tempore Sellers and seconded by Council Member Chang, the City Council unanimously (5-0) <u>Waived</u> the Reading in Full of Ordinance No. 1671, New Series, the Zoning Amendment Ordinance.

Action: On a motion by Mayor Pro Tempore Sellers and seconded by Council Member Chang, the City Council **Introduced** Ordinance No. 1671, New Series, by Title Only, as follows: AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING A ZONING AMENDMENT FROM R2-3,500 TO PUBLIC FACILITIES ON AN 8.49-ACRE SITE LOCATED ON THE NORTH SIDE OF EDMUNDSON AVENUE AT THE SOUTHEAST SIDE OF COMMUNITY PARK HILL **FOR APPLICATION** ZA-02-10: **EDMUNDSON MORGAN** REDEVELOPMENT AGENCY-INDOOR RECREATION CENTER (IRC) (APNS 767-18-025 & -037), by roll call vote: AYES: Carr, Chang, Kennedy, Sellers, Tate; NOES: None: ABSTAIN: None: ABSENT: None.

City Council Action

OTHER BUSINESS:

30. <u>COMMUNITY INDOOR RECREATION CENTER (IRC) APPROVAL OF DESIGN DEVELOPMENT</u>

Deputy Director of Public Works Struve presented the staff report, indicating that the Council appointed an IRC subcommittee which has formed a recommendation being brought forward to the Council this evening. He indicated that the IRC subcommittee's recommendation has been reviewed and endorsed by the Parks & Recreation Commission and by the Youth and Senior Advisory Committees. The

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recommendation is that the Council approves the completion of the design development phase and that the City proceeds with the next phase of design, the preparation of construction documents. He indicated that in February or March of 2005, the IRC would be breaking ground.

Janet Tam, project architect, indicated that the project is far along and that adjustments have been made to bring the project into budget. She addressed the site plan (including space for the skate park), circulation, parking, landscaping, floor plan (52,000 square feet), and building elevation (materials, elements, colors). She requested that the Council approve proceeding with the next phase, the construction documents.

Mr. Struve addressed the project's budget and the economic analysis. He informed the Council that the IRC subcommittee supported value engineering decisions in order to keep the project within budget. If items were value engineered out of the project, these item are being recorded in order to be able to reincorporate them if funding becomes available. He addressed the economic cost recovery analysis for the project. He stated that the analysis shows that in the first year of operation there would be a shortfall in the operating cost above revenues of \$92,000. In the second year, the project would go into a positive situation of \$8,000, progressively getting better until the fourth and fifth year when it flattens out. The IRC subcommittee made sure to include the site operation maintenance costs in the economic analysis. He indicated that the City compared proposed fees for the center with the Monterey Sports Center, the Roseville Sports Center and the Mill Valley Community Center. He stated that the City is charging slightly over the Monterey Sports Center's cost for youths, teens, seniors and families on a daily basis. The City is substantially under the Roseville Sports Center and the Mill Valley Community Center fees. Therefore, City staff and the IRC subcommittee believe that the City has implemented the appropriate fees. He informed the Council that the project is on schedule.

Council Member Tate said that the economic analysis revolves around specific components such as the aerobics or the gymnasium and identified how much these components would make. However, he does not have an idea of what it would cost to run these components. He said that he could not look at the analysis and review each component to determine which components are giving the City the most profits and which are costing the City.

Recreation and Community Services Manager Spier said that staff did not break down the operating cost for the aerobics room or the gym because staff is basing the information on a pass. Therefore, the performa for the gym, the senior portion in the youth wing, are part of the pass and subsidized programming. When the Sports Management Group and the YMCA conducted their analysis in November 2001, they found that 47% of the users made decisions to join with a pass fee if there was a gym present. She indicated that staff could look at this information and break these factors down. She stated that the gym, the aquatics, senior and youth areas are part of the daily pass fee. She said that staff could return and present the Council with a percentage of the daily fee that would not be captured if the City did not include these components.

Council Member Tate said that he was specifically interested in the gym because it is a large component of the IRC. He has been led to believe that this component was not a money maker. He inquired why

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the City is looking at including a gymnasium as it is an expensive component to build if the City is not going to make money on it.

Ms. Spier said that when the City started the process of planning the pieces of the core facility, the public and the community made a determination that the gym was third on the core list of space needs. This is how staff determined where the City's programming would come from. She indicated that senior and the youth subsidized wings were dependent on the gym to provide multi use space. She stated that \$120,000 was attributed to the 2nd and 3rd year as revenue capture because the gym was included with the assumption that youth and senior programs would be subsidized. She said that the City could charge more for youth and leagues. Therefore, this ended up being a core programming area for these two populations.

Mayor Pro Tempore Sellers said that in addition to the fact that the gym was identified as a key need; the IRC subcommittee asked this question as well. The response was that in and of itself, the gym does not make money but that it helps attract in other areas.

Mayor Kennedy said that it was found with the aquatics center that the construction manager, Nova Systems, did an excellent job in helping the City cut costs out of the project in value engineering. He inquired whether Nova Systems was on board with this project.

Mr. Struve indicated that Nova Systems was initially used to perform cost reviews and to perform a cost estimate review. He stated that staff is ready to bring them on board should the Council approve to move forward with the construction document phase.

Mayor Pro Tempore Sellers thanked staff and the IRC committee members for all their work on this project. He indicated that the IRC committee held three separate meetings and reviewed every line item in detail to make sure that the Council's direction of keeping the cost on budget was met.

Mayor Kennedy opened the public comment.

Jan Guglielmo inquired why the Council is including a swimming pool in this facility when the City is building an aquatics center and that the swimming pool at Live Oak High School has recently been remodeled. She felt that there may be overkill on swimming pools. She inquired whether this swimming pool would draw from the other swimming pools as individuals can only use so many swimming pools, acknowledging that this swimming pool would be used by seniors and youth. She did not know how many swimming passes would be sold, and the profit margin to be made. She inquired whether Sobrato High School will have a gym that can be utilized, deferring the construction of the gymnasium.

Mayor Kennedy said that it was his understanding that the indoor pool will serve a market not covered by the aquatics center. He indicated that this will be a warm water swimming pool for seniors and small toddlers. He stated that water aerobics and rehabilitative programs can be provided year round with the indoor swimming pool. He felt that this was an important money making component of the IRC to help make it break even.

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No further comments were offered.

City Manager Tewes said that the indoor swimming pool relates to the needs identified by the community, noting that this swimming pool would serve a different market niche than the outdoor pools. Further, the swimming pool will afford an opportunity to generate operating funds for the center.

Council Member Tate indicated that he understood that the swimming pool would help make money for the IRC. He said that he would like to see an IRC that supports the senior and youth needs. However, the City would be spending \$21 million for this project, including the cost for the land. He said that every time the Council looks at how the City would fund a library, the Council comes up \$3-4 million short and that it is not known where this money will come from. Without taking a look at this plan to see what can be cut, he did not know how much can be saved on the construction that can be put to other use(s). He felt that the gymnasium would be a desirable component as part of a recreation center. However, should the public be asked to rate what they would like to see constructed in terms of public facilities within Morgan Hill, he would like to see where the library would come up on the list. Therefore, he could not support moving forward with the IRC until he sees a plan that he can agree with.

Mayor Kennedy felt that the Council would be able to find a way to construct both the library and IRC facilities. He stated that the Council has designated Council Member Tate and himself to return with a report on alternatives and funding sources for a new library in June 2004. They are working on this process and he was convinced that the City would be successful in moving forward with both projects without having to make further cuts. He noted that the City has significantly reduced the cost of this project in value engineering and that he would hate to see it cut further. He indicated that the Council could make the decision to proceed with the working drawings this evening without jeopardizing its decision. He felt that the Council could still make the decision to eliminate the indoor pool and/or the gymnasium in June 2004. Even if these two components of the IRC were eliminated, he felt that the drawings could still be used and would not be a wasted effort. He did not believe that cutting components out of the project is a decision that needs to be made today and can be made in June 2004. He recommended that the Council move forward with the engineering and the working drawings in order to keep the project on schedule. He noted that this was one of many projects that was part of the Visioning Process that the community has shown a strong desire to have (e.g., senior/youth center and a variety of recreational facilities). He felt that it was important to move forward with the IRC without jeopardizing or forestalling a decision in June 2004 that would still allow the Council to continue with a library. The Council could make a decision to down scope the IRC facility in June, if necessary.

Council Member Carr thanked the subcommittee and staff for all their hard work and value engineering as these can be difficult decisions to make. He also thanked staff for their hard work with the seniors and youth advisory committees. He indicated that the Council was adamant about conducting outreach efforts in order to determine the needs of youths and seniors. He felt that the design addressed these needs. However, he had a similar concern as Council Member Tate. He said that he reluctantly supported moving forward with the IRC the last time it was before the Council because the City was not necessarily spending more money. It was merely a check in point as to where the City was heading. It was his understanding that tonight's recommended action to proceed with construction documents is the

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time the City will start spending significant dollars on this project. He indicated that the Council has stated at its retreat and to the public that the Council would be making funding and location decisions on the library by June 2004. He stated that he was not comfortable in spending additional dollars on other RDA projects until these decisions are made. He noted that Council Member Tate presented an update on the library and heard that the library is short in dollars. He felt that there may be a way to fund both projects. Since the Council/Redevelopment Agency has not had these discussions, he could not approve spending significant dollars on the construction documents for the IRC. He wanted to make sure that the Council makes the public comfortable that the City will be able to fund the library and the IRC.

Council Member Tate stated that he did not want to give the impression that the Council would be saving money on this project as the City has conducted a lot of value engineering to keep the cost at what was budgeted. He felt that the senior and youth IRC is needed in the community but that he wants to balance this project with that of the library project.

Mayor Pro Tempore Sellers indicated that further delays would add approximately \$250,000 in escalation costs and other costs. He felt that the City will have some flexibility in June 2004. He noted that the Council/Agency has made these kinds of decisions before. He said that the combination of need, momentum and the fact that the City would have continued flexibility should allow this project to proceed. He was confident that the Council would identify funds for the library. If not, the Council will still have options available. He felt that the need remains acute for these facilities and that funds would not necessarily be diminished. He reiterated that there would be increased costs with delaying the project, not to mention the momentum. He stated that he understood the concerns expressed by his colleagues. He urged the Council to proceed this evening as it is the right thing to do at this juncture.

<u>Action:</u> Mayor Pro Tempore Sellers made a motion, seconded by Council Member Chang, to <u>Approve</u> Subcommittee Recommendations for Final Design Development Documents.

<u>Action:</u> Mayor Pro Tempore Sellers made a motion, seconded by Council Member Chang, to <u>Direct</u> Staff and Architect to Begin Construction Documents.

Council Member Chang stated that it was her belief that the City will be able to build a library. She noted that originally, the library and IRC projects were planned together. She stated that she was disappointed to see that it is becoming a library versus an IRC project. She noted that this Council has proven that it can get results. She said that she was willing to take certain steps to construct both projects. She indicated that the Council will be able to eliminate certain programs from the IRC if needed. Therefore, she would like to proceed with staff recommended actions.

Council Member Tate agreed with Council Member Chang, indicating that he would like to find a compromise. He noted that the library design had to be scaled back from 40,000 square feet that it had in the Proposition 14 application. He was trying to find a way to scale back the IRC in order to be able to construct both projects.

Council Member Carr said that the Council has indicated that it wanted to build both projects. However, the City did not envision paying for the construction of the entire library. He noted that the Council has

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not figured out how it would pay for the construction of the library and that he would like the Council to figure this piece out. He stated that he was not suggesting that the Council downscale the IRC as he did not know if it was necessary to do so today. However, the Council has not had the discussion of funding the library. He was confident that the Council would be able to figure out how to fund both projects, but that he was not willing to move forward on hope and placing significant resources on the table today and bet on hope that the Council will figure out a way to fund the library. He expressed concern that moving forward with the construction documents and spending significant resources on these documents, the Council will not be willing to have the discussion about how to downscale the IRC. He felt that the gym was a great component to the IRC. He would like to see the City figure out a partnership with the YMCA to make them a part of this process. He noted that these are questions that have not been answered and that the City has not finished these discussions. Therefore, he did not see the need to rush and spend the dollars today when there are so many questions yet to be answered.

Mr. Struve indicated that delaying the project for 2-3 months would increase the project's cost by approximately \$75,000, at a minimum, in escalation costs. He said that he has been advised that escalations have already occurred and that there could be more cost increases in the concrete/masonry and steel to be used for the project.

<u>Vote:</u> Both motions, as stated above, carried 3-2 vote with Council Members Carr and Tate voting no.

31. URBAN LIMIT LINE STUDY – AMENDMENT OF SCOPE OF WORK TO ADD AN IMPLEMENTATION PROGRAM AND AMEND THE CONSULTANT CONTRACT WITH MOORE IACOFANO GOLTSMAN

Mayor Kennedy requested that staff address the City's notification to the public and a genesis to the reason the City is undertaking this effort.

Director of Community Development Bischoff identified the genesis for the Urban Limit Line (ULL) study. He stated that the 2001 General Plan update included policy language that directed the City to undertake a study of a greenbelt within two years from adoption of the Plan. He indicated that over a year ago, staff came before the Council with a scope of work that provides for a program by which the City could establish a ULL and a greenbelt. The Council approved this scope of work and appointed a 16-member task force to evaluate the potential of a ULL and greenbelt. This task force is chaired by Mayor Kennedy and that Council Member Chang participates on this task force as well as two members of the Planning Commission. He indicated that a broad section of the community has been involved with this process. He indicated that the committee has met 14+ times over the course of a year and have made good progress in looking at where the ULL and greenbelt should be.

Mr. Bischoff indicated that the area that the committee has had most difficulty with is the southeast quadrant, east of Highway 101 and the vicinity of Tennant Avenue. One of the issues that the committee had a lot of difficulty with is the establishment of a ULL and a greenbelt without knowing the implications of it. As the scope of work was drafted by staff and approved by the Council, it was staff's assumption that a ULL would be established and defines what might be in a greenbelt. As part of a

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subsequent effort, the City would figure out how it would be implemented. He informed the Council that the Committee did not feel comfortable with this approach and felt that they needed to know the implications of lands outside of the ULL and within a greenbelt. He stated that there was a sentiment on the committee that if any land is to be included in a greenbelt, it needed to be a permanent greenbelt. The only way that lands could be made permanent is by either acquiring the property located in the greenbelt or acquiring development rights from properties. He indicated that there were other committee members who felt that there were other ways to address this issue. He informed the Council that the committee felt that they needed to do more in terms of implementation before they could finalize the ULL and greenbelt areas.

Mr. Bischoff indicated that the item before the Council is to expand the scope of work to include a detailed implementation plan and deal with the southeast quadrant before making final decisions with respect to where the ULL and greenbelt should be. Regarding public notification, he stated once the committee reaches some preliminary consensus over where an ULL/greenbelt should be, a public workshop would be scheduled and the community would be invited to attend and provide input with regards to the committee's initial recommendations. He noted that the committee has not reached this point. He informed the Council that it was staff's intent that the City would do everything that it can to notify the public of the workshop to encourage individuals to provide input. He indicated that the ULL committee is open to the public and that the agendas for these meetings have been posted. He informed the Council that there has been quite a bit of interest in these committee meetings, having, on average, 20-30 individuals from the public attending these meetings. These individuals are actively participating in these meetings.

Mr. Bischoff stated that this would be the third time that the Council will address the implementation plan. At the last two meetings, the Council was presented with a detailed history of the project, its origin and the progress that the Committee has made to date. At the last Council meeting, the Council heard comments from several members of the committee with respect to their views on this project and where it should go. He discussed, in detail, the implementation plan being proposed by the committee and options for increased City Council involvement in the process. He stated that he received a call from a property owner in the southeast quadrant this afternoon indicating that she received a flier encouraging individuals from this area to attend this meeting. The flier suggests that the Council will be considering the use of a benefit assessment district for installing improvements in the southeast quadrant. He clarified that this action is not on the Council's agenda this evening. The committee will be suggesting that the Council investigate a number of alternatives for the development of the southeast quadrant; one of which may be the use of a benefit assessment district. However, he stated that there will be a number of other alternatives that will be evaluated as well. This will come as a recommendation to the Planning Commission and City Council in the future.

Mayor Kennedy clarified that the ULL Committee will prepare its proposed recommendation. These recommendations will be forwarded to the Planning Commission for their discussion and review; followed by review/discussion by the Council. He noted that nothing will be adopted until the Council takes this action. This is not expected to occur until late this year, if this action occurs.

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Mr. Bischoff presented the committee's recommendation on how to proceed with the implementation plan. He stated that the committee is recommending that the scope of work be expanded to include an implementation plan but not to increase the consultant's budget in the process. He identified the 9 steps to the implementation plan for all parts of the sphere of influence of the City with the exception of the southeast quadrant: 1) survey five agencies with land preservation programs; 2) identify a full range of land preservation mechanisms; 3) evaluate options for modification of city and county land use policies and regulations; 4) assess funding sources for implementation of a greenbelt; 5) identify an order of magnitude range of easement/land acquisition costs for greenbelt areas; 6) identify staffing levels and administration for program implementation; 7) identify land acquisition principals and priorities; 8) assess potential intended and unintended impacts of the proposed implementation program; and 9) merge information from tasks 1-7 into a proposed implementation program.

Mayor Pro Tempore Sellers inquired how staff came up with the order of the implementation plan and whether there were preliminary decisions that need to be made that would limit the options or steer the committee in a specific direction.

Mr. Bischoff responded that the steps made sense to the committee in terms of their sequential order. He did not know whether there was anything set in stone that would necessitate following the sequential steps. He addressed the southeast quadrant of the City, indicating that this was the area that caused the committee the most concern. He stated that the committee recommends that the Council conduct a special planning study for the southeast quadrant area that would identify the following components: 1) Evaluate an alternative master planning technique and recommend a preferred alternative; 2) conduct a preliminary economic evaluation of alternative funding techniques for installation of needed infrastructure and greenbelt; 3) identify the timing and/or trigger mechanisms to be used for preparation of a master plan and implementation of infrastructure funding mechanism; and 4) identify policies and actions that should be included into the Morgan Hill General Plan. He addressed the final product for the southeast quadrant as a result of this effort is as follows: 1) A definition of the geographic area to be covered by the future master plan for the southeast area. 2) The types of uses to be accommodated in the area and the relevant acres to be assigned to each use. 3) The appropriate planning technique to be used to develop the land use plan for the area. 4) The appropriate means of funding installation of infrastructure needed to support development of the area and the phasing of those improvements. 5) The timing of the development of the land use plan for the area and installation of infrastructure. 6) The appropriate amendments to the general plan and other documents which will ensure the planning is carried out as approve by the document. He informed the Council that separate votes were taken: the early implementation for the city was recommended by the committee on a 16-0 vote; 2) the committee vote for the southeast quadrant was on 14-2 vote.

Mr. Bischoff indicated that there are certain assumptions that went into the proposal to expand the implementation plan for this project. One of the assumptions is that there would be five additional meetings of the full ULL committee and six meetings of the subcommittee formed to discuss the southeast quadrant with the expectation that the subcommittee would be reporting to the full committee. The second assumption for the southeast quadrant, is a plan for a plan and not the plan itself. The third assumption is that the implementation program would not address the mitigation for the conversion of prime agricultural land. The fourth assumption is that the contract with Moore Iacafono Golftsman will

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be amended to reduce the amount of hours that they put into the project and shifts these hours to City staff. He addressed opportunities for the Council to be more involved in the process. It is staff's belief that this process might serve as a way to provide input to the committee, noting that three options included in the Council's agenda packet are as follows: 1) present three status reports to the Council as part of a regular Council agenda item and discuss them similarly as is being discussed this evening. Status reports would be provided with Council opportunities to review and comment on the preliminary economic analysis for the southeast quadrant area, review the subcommittees conclusions of the plans and recommendations for the southeast quadrant area, and review acquisition priorities/committee's reaction to the subcommittees recommendation; 2) The Council can be provided with two status report and conduct one workshop; 3) The Council can conduct two separate study sessions.

Council Member Tate referred to attachment B, step 7 of the implementation plan, noting that it indicates that there is to be an identification of the land acquisition principals and priority. He noted that these were to be brought to the City Council. He indicated that several steps are being recommended for the southeast quadrant under step 11. He inquired how this step blends in with the sequence of the original 9 steps.

Mr. Bischoff indicated that both steps would occur concurrently. He indicated that the workplan for the city, overall, would not relate to the southeast quadrant, stating that the southeast quadrant would be a separate process. He said that for the southeast quadrant, all that is being discussed is a "plan for a plan." Should the plan ultimately call for acquisition of easements or fee titles, the priorities could apply equally to the southeast quadrant. He clarified that the southeast quadrant area would not result in a plan but a framework for a plan.

Council Member Carr noted that staff talked about changing the consultant's contract so that the time is not increased and the budget would remain the same. However, there would be an increase of City staff time proposed. He inquired how the work load would be absorbed based on the work load staff already has.

Mr. Bischoff indicated that the City has had Ken Schreiber on board as a contract planner for some time working on this project. He stated that the Community Development Department has had in its budget funding for a senior planner position for some time now. He indicated that the City has been unsuccessful in finding a qualified candidate to fill this position. He stated that some of the monies for this position have been used to pay for Mr. Schreiber to assist with this project. He indicated that Mr. Schreiber's salary has not been incorporated into the contract with MIG. He said that Mr. Schreiber's hours and costs have gone up. Some of the additional costs would come from the \$20,000 contingency and would reduce the amount of work that is being performed by MIG. However, it would not cover all of the additional costs. He informed the Council that the subcommittee that will address the southeast quadrant has been appointment by Mayor Kennedy as follows: Alex Kennett, chair; Ann Beale; Tim Chiala; George Thomas and Joe Mueller.

Mayor Kennedy opened the floor to public comment.

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Rocke Garcia indicated that he is a member of the Urban Limit Line (ULL) and General Plan Committees. He felt that the vote from the ULL committee tells it all as it was 14-2 and 16-0 vote. He indicated that the area of most concern as a citizen and home builder is the southeast quadrant. He said that his main issue is that the City has the best opportunity in the bay area to take a large area of approximately 1,200 acres and properly make long range plans this area. He felt that this would be an ultimate benefit for the existing farmers and landowners in the area. It will also be a great benefit to developers as individuals will know what they are buying. It was his opinion that the "plan for the plan" would be a 10-year process. He recommended that the City take its time as there are significant issues, especially with the nexus issue as far as a greenbelt and open space is concerned.

Mark Grzan felt that the work of the committee has taken far too long to achieve its objectives. He also felt that the controversy that exists is driven by self interest versus the interest of the residents of Morgan Hill. He said that further work will produce a product that will be unacceptable to the community. He said that the committee failed to preserve key areas that are vital to Morgan Hill's rural character such as the area east of Hill Road. The committee proposes to place future development in close proximity to strategic and sensitive environmental areas such as having development along Coyote Creek. He felt that the committee has violated the wishes of the residents along Edmundson Road who spoke before the General Plan Task Force by allowing development along Edmundson Road. There has also been discussion well into the foothills at the eastern end of Tennant Avenue, a violation of the General Plan. He felt that it appears that it is the mission of the committee on how Morgan Hill can be developed as opposed to preserving it for future generations to come. He noted that members of the committee are property owners, holding properties in the area being considered and will directly profit from the decision it makes. He felt that a conflict of interest exists among committee members. He did not believe that the committee can come to a decision that the residents of the community will accept. He stated that the next phase looks at addressing compensation. He did not know how the Council can approve the work of this committee to move forward knowing that members will directly profit from the decision the Council makes. He noted that property owners are advocating moving ULL lines to include property lines of committee members. He felt that self interests have only influenced the decision making process. He felt that the ULL lines drawn in unincorporated areas in the County can be developed in accordance with county guidelines. He did not believe that the work of this committee would deprive any property owner of that which they already have, as the ULL does not prevent development. It was his belief that the work of this committee is over and that further action and the commitment of additional resources will produce an unacceptable product. He recommended that the Council terminate the committee's work; taking the work or forming another committee to finalize the project. Should the Council vote to continue the committee's work, it was his belief that Council and members of the committee could be subject to legal challenges due to potential conflicts of interest, especially when financial compensation is addressed.

Phyllis Pedrizetti, a 55-year resident in the southeast quadrant, indicated that she has not heard about the ULL. She inquired how this study would affect her, the cost to her, and whether it would impact the sale of her land. She requested notification of future meetings so that she can determine whether she supports or opposes the ULL. She did not know how this project would impact her or other property owners.

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Joe Mueller said that what is being addressed is how to maintain the quality of life in Morgan Hill. He felt that it was important to look at how the City will grow and develop over the long term. He said that it was important to look at this in a larger scale so that you can look at the whole picture and plan it out. He acknowledged that this will be a long process as the southeast quadrant needs a framework to start this process. He disagreed with Mr. Grzan, and felt that it was important to include all parties and the public in order to make sure that the process is open, and includes everyone to make it successful. He stated that it was important to continue the work as these are difficult issues and involves longtime property owners and citizens on how to maintain the quality of life. What the committee has asked the Council to approve is a reasonable next step to keep the process moving forward.

Julia Borina Driscoll felt that there was a need for a thorough comparative business and financial analysis. She said that a comparison needs to be conducted that compensates adequately the property owners and serves the well being of Morgan Hill while addressing the needs of Morgan Hill's society on a simultaneous basis. She did not believe that the City is able to afford a greenbelt any longer.

Dan Puliafaco concurred that members of the community are able to attend the ULL meetings. However, he felt that the public is excluded from participating on each agenda item. As the committee addresses each agenda item, motions are made and voted upon. By the time the public has an opportunity to address the ULL committee members, the motion is passed. He stated that properties are the pensions of property owners. Establishing a greenbelt on property takes away property owners' pensions. He felt that the Tennant Avenue area is one of the best spots for a business park and development. He said that Tennant Avenue has become a major thoroughfare. He felt that the City needs to provide for future generations to be able to continue with their projects. With limited growth, he felt that the Council was placing a burden on future generations to be able to afford homes in the area.

Art Puliafico, member of the ULL committee, felt that it was important for property owners to be on the committee as their input is important. Without property owners' input, he doubted that the city would have come up with a workable plan. He said that the residents in the City limits once had their lands in open space that they now want to protect that. These property values have gone up substantially by the growth control measure they are able to vote upon, where property owners outside the city limits are unable to vote on these issues. He indicated that the 14-2 vote was taken based upon staff's recommendation that there was 650 vacant industrial acres in the City. He indicated that this is not an accurate number and that the number is 450 acres, possibly less. This number determined how the committee voted as it appeared that there was an ample supply of vacant zoned land. If a vote was taken again, he felt that it would result in a different vote.

Jan Guglielmo, a 40-year community member, felt that many of the newcomers to Morgan Hill are only thinking of what they want and enjoy in Morgan Hill. She did not believe that the newcomers have concerns for the farmers or individuals who have lived here for many years. She felt that farmers are the true greenbelt; the ones who have taken care of the land, nurtured the land and truly care what is taking place. They would like to stay on the land if they can afford to do so. When they have to keep taking money out of a savings account every year to pay taxes, it tells them that they can no longer stay in farming. She felt that it was time for the Council to think about the individuals who reside on flat land

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(e.g., San Pedro to Maple). She said that when the committee voted on an assessment district, 6 out of 17 committee members voted for an assessment district. The rest of the members did not believe that an assessment district was a good idea. She felt that the property owners should be contacted to see if they believe that an assessment district is a good idea. She did not believe that these property owners should be the ones to have to pay for an assessment district that would pay for a greenbelt for all of Morgan Hill to enjoy. If everyone wants to enjoy a greenbelt, she recommended that everyone work together and find a way to pay for it and make it fair.

Alex Kennett stated that he serves on the ULL committee and that he served on the recently completed Gilroy agricultural mitigation task force. He indicated that the task force took its recommendation to the Gilroy City Council in October 2003 and the task force had to start over again. In February, the task force broke down into a subcommittee mode. He has sent the results of the final document to Mayor Kennedy, Council Member Chang and Mr. Bischoff. He recommended that Gilroy's document be presented to the ULL committee on Monday. He felt that the subcommittee will be focused and will take everyone into consideration. Individuals in attendance would be allowed to provide input but would not be allowed to vote. He felt that the committee is on the right track and that it would be a shame to walk away from the work that has been completed to date.

No further comments were offered

Mr. Bischoff said that it was his understanding that the Pedrizzetti's property, located on the north side of San Pedro area, is located within the City's urban growth boundary and that this land is not being considered as part of this study. He said that staff does not know what areas would be covered by the plan. Therefore, it would be difficult to know who would or would not be affected by the plan. He indicated that the ULL committee meetings are open to the public and are well attended. He said that at Council meetings, the ULL meetings could be announced or that staff would follow Council direction in terms of noticing. He said that the Mayor has expanded the opportunity for public comment the last few meetings at the beginning and end of meetings. He said that a 14-2 vote was taken and that a simple majority felt that the southeast area should be studied. One thing to be looked at is the possibility of a benefit assessment district. He clarified that no one voted for an assessment district and that all that was agreed to amongst other techniques, is that a benefit assessment district should be evaluated. He addressed the different ways of calculating vacant industrial lands. He said that staff identified that within the Morgan Hill Ranch project there is approximately 80 acres of undeveloped land and another 15 acres of developed land. In the Madrone Business Park, over half of that project is developed and that there was approximately 40+ acres vacant. Therefore, the City has land reaching approximately 150 acres that is in the city limits, properly zoned and has all services available. However, there are other industrial acres within the city and within the urban service area that are available for development. He indicated that there were a number of votes taken by the committee. A vote was taken in October 2003 by the committee not to designate an industrial park in the southeast quadrant but rather to say that there is approximately 200 acres in the vicinity of Tennant, east of the freeway.

Mayor Kennedy requested that a public notice be placed at the library, Morgan Hill Times and the Pinnacles of future subcommittee and standing committee meetings. He said that that with any meeting, committee members are faced with a balance of working through an agenda and giving the public

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adequate time to speak. He stated that he has been trying to give every member of the public the opportunity to speak. However, with a 16 member committee and with all the property owners in attendance, it would result in very late meetings if everyone was allowed to speak. He noted that the ULL committee is heavily weighted in favor of property owners and that Mr. Puliafico serves on the committee. He felt that property owners have been given adequate representation and felt that the City was trying to do its best.

Council Member Chang did not believe that there were more than 200 parcels in the southeast quadrant. She suggested that an identified meeting schedule be sent to these property owners.

Mr. Bischoff informed the Council that the Morgan Hill Times prints the schedule for the ULL committee meetings. With respect to notification, should staff be required to do this kind of mail out, it should not be limited to the southeast quadrant but to everyone that is being affected by this plan. He indicated that staff would follow the direction of the Council. He said that one concern that the City Attorney may have is that there is risk that when you go beyond what is required by law and you miss notifying someone, there may be a potential claim of unequal treatment.

Mayor Pro Tempore Sellers stated that he would support modification to the scope of work as it is a recommendation of the entire committee. However, he was anxious about the progress and the ability to complete the scope of work in a timely manner.

Mayor Kennedy noted that Mr. Kennett and Mr. Mueller felt that the modified scope of work was doable.

Council Member Tate noted that there was a vote of 14-2 of ULL committee members to modify the scope of work. However, there was some question as to whether this was an accurate vote. He noted that the Council appointed this committee and placed its faith in this committee. He said that he would go along with the committee recommendation. He felt that the committee should answer the question of whether there needs to be additional Council involvement. If the Committee believes that the Council should be involved in a workshop or provide them guidance along the way, the Council should provide this guidance. If they are not asking for guidance, he would support the committee proceeding. He felt that what was in the original workplan of reviewing the priorities and policies derived was the right point in time for the Council to review the plan. He felt that this should apply to the southeast quadrant whether it is a plan for a plan or a plan, that addresses the policies and properties.

Council Member Carr agreed that the ULL committee is requesting a change in the scope of work. However, he expressed concern that the Council appoints an advisory body to give it some advice and that they request a change in the scope of work. It was his hope that the ULL committee understands that the Council is asking for advice and that ultimately the Council will be making a decision. He did not want to see a product recommended in October 2004 only to be rejected by the Council and then ask the committee to go back and redo the product. He felt that it was important for the Council to be involved in the process as the committee is given the ability to change the scope of work.

Council Member Tate felt that the committee should return to the Council with recommendations.

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Mayor Kennedy did not know if you can draw a line if you do not know how the line is to be implemented. If the property owners do not know what the impacts will be, he did not know how they could buy into a line that crosses their property. It was determined early on by the committee that it had to work with the implementation plan as well as the establishment of the line. He felt that the committee was making good progress and that a line has been drawn around 75% of the City. He said that the southeast quadrant is a difficult area but that a committee is in place that will come up with the right solutions to the problem. He stated that this will be a difficult process but that he did not have any doubt that the committee would succeed.

Council Member Carr recommended that when the committee reaches the difficult/stalemate points, that the committee check in with the Council to seek advice/direction on the difficult decisions.

Mr. Bischoff informed the Council that there has been 3 occasions in the past 15 months when staff reported back to the Council on the progress of the committee. He said that staff staged check in points with Council to correspond with the achievements of the committees.

Council Member Tate stated that he would support staff's recommended action and recommended that the Council forward a request to the committee that it make a recommendation to the Council on how the Council can best be involved and help guide them.

Mayor Pro Tempore Sellers said that he was not as inclined to proceed with the workshop option because he did not know if it would be a productive use of the Council or committee's time in trying to get the Council up to speed on what they have been doing for 15 months. He would like the discussion to be centered on what kinds of reports and how often the reports should come to the Council. Regarding notification, he did not recommend that the City tie in specific dates as it would create other problems. He recommended that broad public notification be given for the next few sessions. He requested that the committee consider addressing the viability for large scaled industrial parks. He felt that it was vital that the process be predicated on mutual respect and participation. He said that there has been participation in this project but that it was his belief that respect has been strained at certain levels. If there are members who believe that the committee should be disbanded and believe that the individuals appointed to this committee are not the right individuals to serve on this committee, it may be incumbent upon on that individual/those individuals to recuse themselves because they may not be furthering the process. He felt that it was vital to have everyone who has an interest on the table at the beginning as you will not come up with a right decision or a decision that will get approved. This will result in a community decision and not a few individuals making a decision that is good for them.

Action:

On a motion by Council Member Tate and seconded by Council Member Chang, the City Council unanimously (5-0) <u>Approved</u> Modification to the Scope of Work for the Urban Limit Line (Greenbelt) Study, requesting that the Committee Identify the Level of City Council Participation in the Implementation Program.

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Action: On a motion by Council Member Tate and seconded by Council Member Chang, the City

Council unanimously (5-0) Approved Amendment to the Contract with Moore Iacofano

Goltsman (MIG).

Action: On a motion by Council Member Tate and seconded by Council Member Chang, the City

Council unanimously (5-0) Authorized Use of the Contract's \$20,000 Contingency.

32. PURCHASING STUDY REPORT

Assistant to the City Manager Dile presented the staff report, identifying the 21 recommendations in the final purchasing study report. She indicated that of the 21 recommendations, 3 require Council approval. She stated that the Finance & Audit Committee has reviewed the report and supports the recommendations with two changes: 1) the Municipal Code language to include requirements for staff to receive periodic price comparisons on service venders every four months; and 2) the Municipal Code language to require department directors to sign off on any purchases over \$1,000. She said that staff requests that the Council approve the proposed changes in concept and direct staff to return with specific amendments to the Municipal Code.

Council Member Carr clarified that when the Finance & Audit Committee reviewed the study, it recommended that bids be solicited after the forth time the same vendor is used and not every fourth months.

Council Member Tate complimented staff for the thorough presentation and the inclusion of back up information. He felt that it was a good piece of work.

Mayor Kennedy stated that he has been advocating for many years that the City redo its purchasing program and felt that this is a good step in the right direction.

Mayor Kennedy opened the floor to public comment. No comments were offered.

Action:

On a motion by Council Member Tate and seconded by Mayor Pro Tempore Sellers, the City Council unanimously (5-0) <u>Accepted</u> the Report on the City of Morgan Hill Purchasing Function; <u>Considered</u> Staff Recommendation and Finance and Audit Subcommittee Feedback, correcting the section relating to soliciting bids after the fourth time the same vendor is used; and <u>Directed</u> Staff to Propose Changes to the Municipal Code.

33. POLICY FOR NAMING CITY FACILITIES

Assistant to the City Manager Eulo presented the staff report.

Mayor Pro Tempore Sellers said that the Legislative Subcommittee felt that it was important to come up with a policy at this time as facilities are soon to come on line. He noted that the Legislative Subcommittee set the bar high for renaming existing facilities. If there are opportunities in the future,

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the City may want to consider naming facilities. This does not mean that he wants to name everything in sight or go back and look at existing facilities. It was felt that if a policy is adopted, it would provide a guideline for naming city facilities in the future.

Mayor Kennedy opened the floor to public comment. No comments were offered.

Action: On a motion by Council Member Chang and seconded by Council Member Sellers, the

City Council unanimously (5-0) Approved the Council Policy for Naming Facilities

Recommended by the Legislative Subcommittee.

34. CAMPAIGN STATEMENTS AND ELECTION COSTS

City Attorney Leichter indicated that most of the Council Members would have a conflict of interest associated with this item. Therefore, the City will need to invoke the rule of necessity. She said that anyone who has a seat up for reelection this fall has a direct conflict of interest as well. Anyone whose seat is not open but is participating in the election may have a direct conflict of interest. She stated that even those who are undeclared at this point have a potential conflict of interest. She recommended that the City invoke the rule of necessity and draw straws to see which Council Members would get to participate.

Council Members Carr, Chang and Sellers were drawn to participate on this item.

City Manager Tewes presented the staff report, stating that the recommendation could potentially affect the financing of candidates; including the City Clerk. He indicated that this item is being brought to the Council's attention in light of the City's budget situation. He stated that the Council adopted a budget strategy that asks staff to reduce next year's expenditures from the base level by \$800,000. This required all departments to look carefully at all expenditures. He said that the Council has adopted a set of guidelines for how staff is to approach this such as looking at administrative efficiencies before reducing services. Among all City costs that are increasing, the cost of election/democracy is increasing four fold. He indicated that in November 2002, the municipal election cost the taxpayers \$12,061. Some of these costs are mandated by the County Registrar and some of are discretionary in nature. Staff has brought to the Council the discretionary issues this evening. He informed the Council that it has been the practice of the City of Morgan Hill to allow the taxpayers to pay for the cost of candidate statements that are published in the ballot. He stated that in 2002, the cost was a nominal amount. He said that these costs are changing significantly next year along with the mandated costs as it is estimated that it would cost the City over \$14,000 to fulfill the discretionary costs under certain assumptions. He informed the Council that the estimated overall election costs for November 2, 2004 will be \$53,000 (\$38,000 mandated fees and \$14,000 in discretionary costs). Staff is asking whether the Council wishes to consider any modifications to the discretionary policy.

Mayor Pro Tempore Sellers opened the floor to public comment. No comments were offered.

Mayor Pro Tempore Sellers said that this is a difficult issue as you want to promote democracy and improve access. He felt that ballot statements are a significant resource for candidates, particularly for

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those who are not well funded. Should the City require 100% cost recovery, you would increase significantly the amount of money that City Treasurers and City Clerks would have to raise in order to have a ballot statement. He noted that the races of late for Council candidates have been under \$10,000. However, there have been cases in Morgan Hill where you see individuals spending up to \$20,000-\$25,000 on a campaign. He recommended that the City consider reducing/eliminating costs for the Clerk and Treasurer's offices. He said that for being less than 25% of the total cost of the election, the discretionary costs is a relatively small amount. He would support the Council and Mayor candidates bearing some of these costs, but not all of the costs. He did not support making the contribution so high that the City precludes individuals from seeking office.

Council Member Chang said that she reviewed the numbers presented by staff. In looking at how much she makes as a Council member (\$300/month or \$3,600/year), she has to pay taxes on this elected pay. This would result in her having approximately \$2,000 remaining for the year. She felt that this \$2,000 may just be enough to pay for expenses associated with conducting City business. She considers herself as a volunteer serving as a Council member. She did not believe that should have to pay to perform her elected seat as she has no financial gains from this seat. She stated that a few years ago, she did not support an increase in elected pay as she was not in office to make money; but to volunteer her time.

Council Member Carr expressed concern that at this dollar amount it would limit participation. He stated that for an under funded candidate, a candidate statement is a significant way to get their message out.

In response to Council Member Carr's question, City Manager Tewes indicated that it is not mandatory to submit a candidate statement.

Mayor Pro Tempore Sellers agreed that this may be an opportunity to bring in revenue, but felt that the discretionary numbers are small enough at this point that he did not see a huge increase in cost revenue savings to the city that would warrant cutting off access to the democratic process. He felt that the Council members participating in the discussion of this item were in concurrence that it does not want to charge for candidate statements.

Action: No action taken.

FUTURE COUNCIL-INITIATED AGENDA ITEMS

Mayor Pro Tempore Sellers indicated that he has a conflict with the April 28, 2004 meeting. He requested that the Council consider canceling the last meeting of the month.

Council Members Carr and Tate supported holding the April 28, 2004 meeting.

Action: It was the consensus of the City Council to <u>hold</u> its April 28, 2004 meeting.

Council Member Tate requested that the discussion of the Coyote Valley Specific Plan and looking at other means for Council involvement be agendized for a future meeting date.

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Council Member Carr requested a status report from the Library subcommittee, requesting an update of the site selection process.

Council Member Chang requested that the Redevelopment Agency Fund Investment Guidelines be scheduled for a future Council meeting (e.g., economic development guidelines).

Action:

On a motion by Mayor Pro Tempore/Vice-chair Sellers and seconded by Council/Agency Member Carr, the City Council/Redevelopment Agency, unanimously (5-0) <u>agreed</u> to extend the meeting time beyond 11:00 p.m.

RECONVENE TO CLOSED SESSION

Mayor/Chairman Kennedy adjourned the meeting to Closed Session at 11:05 p.m.

RECONVENE

Mayor/Chairman Kennedy reconvened the meeting at 11:55 p.m.

CLOSED SESSION ANNOUNCEMENT

City Attorney/Agency Counsel Leichter announced that authority was granted to defend the City on the appeal of the Bob Lynch Ford, Inc. v. Timothy Paulus et al case.

ADJOURNMENT

There being no further business, Mayor/Chairman Kennedy adjourned the meeting at 11:57 p.m.

MINUTES RECORDED AND PREPARED BY:

IRMA TORREZ, CITY CLERK/AGENCY SECRETARY

Submitted for Approval: April 21, 2004

CITY OF MORGAN HILL JOINT SPECIAL CITY COUNCIL AND SPECIAL REDEVELOPMENT AGENCY MEETING MINUTES – APRIL 14, 2004

CALL TO ORDER

Mayor/Chairman Kennedy called the special meeting to order at 6:00 p.m.

ROLL CALL ATTENDANCE

Present: Council/Agency Members Carr, Chang, Sellers, Tate and Mayor/Chairman Kennedy

DECLARATION OF POSTING OF AGENDA

City Clerk/Agency Secretary Torrez certified that the meeting's agenda was duly noticed and posted in accordance with Government Code 54954.2.

SILENT INVOCATION

PLEDGE OF ALLEGIANCE

PUBLIC COMMENT

Mayor/Chairman Kennedy opened the floor to public comments for items not appearing on this evening's agenda. No comments were offered.

City Council and Redevelopment Agency Action

CONSENT CALENDAR:

Action: On a motion by Mayor Pro Tempore/Vice-chair Sellers and seconded by Council/Agency

Member Carr, the City Council/Agency Board, on a 4-0-1 vote with Council/Agency

Member Tate abstaining, <u>Approved</u> Consent Calendar Item 1, as follows:

1. <u>MINUTES OF JOINT SPECIAL AND REGULAR CITY COUNCIL AND SPECIAL REDEVELOPMENT AGENCY MEETING OF MARCH 17, 2004</u>

Action: Approved the Minutes as written.

City Council Action

OTHER BUSINESS:

Council Services an Records Manager Torrez presented the staff report. She informed the Council that the Municipal Code authorizes the Council to appoint up to a nine-member Library Commission.

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Council Member Tate indicated that the City is going through a detailed process in identifying a site and funding for a new library. Should the Council agree to appoint new library commissioners, he recommended that they not take office until July 1, 2004 and that the current Library Commission Members be allowed to continue their charge until the end of June. Regarding a seven member versus a nine member Library Commission make up, he said that reducing the membership down to the original seven would be a better number. However, the City Council may be in a position again to have a number of well qualified candidates to recommend for appointment this evening.

Library Commission

The City Council interviewed the following applicants to fill upcoming vacancies on the library Commission: Einar Anderson, Bert Berson, Charles Cameron, Chuck Dillmann and John Macchia.

Council Member Sellers recommended that five individuals be appointed to the Library Commission, bringing the membership up to a 9-member Commission. His recommendation was based on the workload that needs to be performed.

Council Member Tate indicated that he would not oppose a nine-member Library Commission should the Council deem that the candidates were qualified to serve on said Commission.

Mayor Kennedy and Council Member Carr stated that they would support Mayor Pro Tempore Sellers recommendation of a 9-member Library Commission.

City Clerk Torrez informed the Council that staff notified all applicants of this evening's interviews. She noted that David Ainscow was not in attendance to interview this evening for both the Library and Parks & Recreation Commission.

Action: By consensus, the City Council <u>Appointed</u> Einar Anderson, Bert Berson, Charles Cameron, Charles Dillmann and John Macchia to the Library Commission, terms effective July 1, 2004; terms ending April 1, 2006.

Parks & Recreation Commission

Council Member Tate indicated that he was not in attendance on March 17, 2004 when the Council interviewed Marilyn Librers. However, he spoke with Ms. Librers yesterday and conducted a brief interview with her.

Council Services and Records Manager Torrez informed the Council that there are five vacancies to fill on the Parks & Recreation Commission: four terms expiring April 1, 2006 and one term expiring April 1, 2005 (filling a vacancy created by the resignation of Commissioner Rick Page).

The City Council interviewed the following applicants: Jeffrey Bernardini, Mark Frederick, Donald Jensen, and Tom Madalena.

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The City Council ranked the candidates by ballot vote.

Action:

By consensus, the City Council appointed the following to the Parks & Recreation Commission: Jeffrey Bernardini, Mark Frederick, Donald Jensen, and Marilyn Librers terms expiring April 1, 2006. Tom Madalena was appointed to fill an unexpired term ending April 1, 2005.

FUTURE COUNCIL-INITIATED AGENDA ITEMS

No items were identified.

ADJOURNMENT

There being no further business, Mayor/Chairman Kennedy adjourned the meeting at 7:58 p.m.

MINUTES RECORDED AND PREPARED BY:

IRMA TORREZ, CITY CLERK/AGENCY SECRETARY



REDEVELOPMENT AGENCY STAFF REPORT

MEETING DATE: April 21, 2004

Assistant Finance Director Approved By:

Prepared By:

Finance Director

Agenda Item # 28

Submitted By:

Executive Director

AWARD CONTRACT FOR AUDIT SERVICES FOR FISCAL YEARS ENDING JUNE 30, 2004, 2005 and 2006

RECOMMENDED ACTION(S):

Authorize the Executive Director to Execute a Contract not to exceed \$17,169 for annual audit services provided by Moss, Levy and Hartzheim for the three years ending June 30, 2004, 2005 and 2006.

EXECUTIVE SUMMARY:

In February 2004, a Request for Proposals was sent to thirty-four audit firms following a review and discussion by the Finance and Audit Committee. Five responses were received. All five firms were interviewed by a panel consisting of the City Treasurer, Finance Director, Assistant Finance Director and two Accountants. Based on a preliminary score and the interview process the firm of Moss, Levy and Hartzheim is recommended to provide audit services for the next three years. There is an option to renew for an additional two years.

FISCAL IMPACT:

The cost for three years is not to exceed \$17,169 (\$5,500 for 2004, \$5,720 for 2005 and \$5,949 for 2006). The current annual cost is \$5,105. Amounts are budgeted in each fiscal year.



CITY COUNCIL STAFF REPORT MEETING DATE: APRIL 21, 2004

ADOPT ORDINANCE NO. 1668, NEW SERIES

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING AN AMENDMENT TO ORDINANCE NO. 1605, NEW SERIES, TO AMEND THE DEVELOPMENT AGREEMENT FOR APPLICATION MP-00-02: EAST DUNNE - GREWAL TO ALLOW FOR A FIFTEEN (15) MONTH EXTENSION OF TIME (APN 728-11-026)

Agenda Item # 29
Prepared By:
Deputy City Clerk
Approved By:
City Clerk
Submitted By:
City Manager

RECOMMENDED ACTION(S):

<u>Waive</u> the Reading, and <u>Adopt</u> Ordinance No. 1668, New Series, and <u>Declare</u> That Said Title, Which Appears on the Public Agenda, Shall Be Determined to Have Been Read by Title and Further Reading Waived.

EXECUTIVE SUMMARY:

On April 7, 2004, the City Council Introduced Ordinance No. 1668, New Series, by the Following Roll Call Vote: AYES: Carr, Kennedy, Sellers, Tate; NOES: None; ABSTAIN: None; ABSENT: Chang.

FISCAL IMPACT:

None. Filing fees were paid to the City to cover the cost of processing this application.

ORDINANCE NO. 1668, N.S.

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING AN AMENDMENT TO ORDINANCE NO. 1605, NEW SERIES, TO AMEND THE DEVELOPMENT AGREEMENT FOR APPLICATION MP-00-02: EAST DUNNE - GREWAL TO ALLOW FOR A FIFTEEN (15) MONTH EXTENSION OF TIME (APN 728-11-026)

THE CITY COUNCIL OF THE CITY OF MORGAN HILL DOES HEREBY ORDAINS AS FOLLOWS:

SECTION 1. The City Council has adopted Resolution No. 4028 establishing a procedure for processing Development Agreements for projects receiving allotments through the Residential Development Control System, Title 18, Chapter 18.78 of the Municipal Code.

SECTION 2. The California Government Code Sections 65864 thru 65869.5 authorizes the City of Morgan Hill to enter into binding Development Agreements with persons having legal or equitable interests in real property for the development of such property.

SECTION 3. The Planning Commission pursuant to Title 18 of the Morgan Hill Municipal Code and Resolution No. 00-17, adopted April 25, 2000, awarded four (4) building allotments for application MP-00-02: E. Dunne – Grewal for Fiscal Year 2000-01 and for FY 2001-02, herein after described as follows:

Project

Total Dwelling Units

MP-00-02: E. Dunne - Grewal

4

SECTION 4. References are hereby made to certain Agreements on file in the office of the City Clerk of the City of Morgan Hill.

These documents, which were signed by the City of Morgan Hill and the property owner, set forth in detail and development schedule, the types of homes, and the specific restrictions on the development of the subject property. Said Agreement herein above referred to shall be amended by this ordinance and shall be binding on all future owners and developers as well as the present owners of the lands, and any substantial change can be made only after further public hearings before the Planning Commission and the City Council of this City.

SECTION 5. The City Council hereby finds that the amended development proposal and agreement approved by this ordinance is compatible with the goals, objectives, policies, and land uses designated by the General Plan of the City of Morgan Hill.

City of Morgan Hill Ordinance No. 1668, New Series Page 2

SECTION 6. The City Council hereby finds that the project delays are due to extended City processing of the final map which required changes to the subdivision improvement plans to include

a 48" storm drain in the proposed cul-de-sac street. To install the storm drain line, the applicant is required to obtain permits from the Water District and other agencies that will further delay the project. The City Council hereby approves a fifteen (15) month extension of time for the project's residential building allotment as set forth in Section 10, Exhibit B of this ordinance.

SECTION 7. The Development Agreement Amendment approved by this ordinance will be the fourth extension of time approved for this project. Given the unprecedented number of time extensions, the applicant is strongly encouraged to proceed with development in a timely manner and to request no further exceptions to the time limits imposed by the project Development Agreement as amended. The City Council strongly encourages that this be the last extension request to the project.

SECTION 8. Authority is hereby granted for the City Manager to execute all development agreements approved by the City Council during the Public Hearing Process.

SECTION 9. Severability. If any part of this Ordinance is held to be invalid or inapplicable to any situation by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance or the applicability of this Ordinance to other situations.

SECTION 10. Effective Date Publication. This ordinance shall take effect from and after thirty (30) days after the date of its adoption. The City Clerk is hereby directed to publish this ordinance pursuant to §36933 of the Government Code.

SECTION 11. Exhibit "B" of the Development Agreement is amended to read as follows:

EXHIBIT "B"

DEVELOPMENT SCHEDULE MP- 00 - 02: E. Dunne - Grewal FY 2000-01 (1 allotment), FY 2001-02 (3 allotments)

I. SUBDIVISION AND ZONING APPLICATIONS

Applications Filed: (12-11-00)

II. SITE REVIEW APPLICATION Application Filed:

(7-01-01) (02-01-02)

III. FINAL MAP SUBMITTAL

Map, Improvements Agreement and Bonds: (7-01-01) (07-12-02)

City of Morgan Hill Ordinance No. 1668, New Series Page 3

IV. BUILDING PERMIT SUBMITTAL

Submit plans to Building Division for plan check:

FY 2000-01 (1 allotment): (10-01-01) (06-01-02) (11-30-02) (11-30-03) (12-15-04)

FY 2001-02 (3 allotments): (06-01-02) (11-30-02) (11-30-03) (12-15-04)

V. BUILDING PERMITS

Obtain Building Permits:

FY 2000-01 (1 allotment): (12-31-01) (06-01-02) (2-15-03) (2-15-04) (3-30-05)

FY 2001-02 (3 allotments): (06-30-02) (2-15-03) (2-15-04) (3-30-05)

Commence Construction:

FY 2000-01 (1 allotment): (12-31-01) (06-01-02) (2-15-03) (2-15-04) (6-30-05)

FY 2001-02 (3 allotments): (06-30-02) (3-30-03) (3-30-04) (6-30-05)

Failure to obtain building permits and commence construction by the date listed in Section V. above, shall result in the loss of building allocations. Failure to submit a Final Map Application or a Building Permit Submittal, Sections III. and IV. respective, two (2) or more months beyond the filing dates listed above shall result in applicant being charged a processing fee equal to double the building permit plan check fee and/or double the map checking fee to recoup the additional costs incurred in processing the applications within the required time limits. Additional, failure to meet the Final Map Submittal and Building Permit Submittal deadlines listed above, Sections III. and IV. respectively, may result in loss of building allocations. In such event, the property owner must reapply under the development allotment process outlined in Section 18.78.090 of the Municipal Code if development is still desired.

An exception to the loss of allocation may be granted by the City Council if the cause for the lack of commencement was the City's failure to grant a building permit for the project due to an emergency situation as defined in Section 18.78.140 or extended delays in environmental reviews, permit delays not the result of developer inactions, or allocation appeals processing.

If a portion of the project has been completed (physical commencement on at least 2 dwelling units and lot improvements have been installed according to the plans and specifications), the property owner may submit an application for reallocation of allotments. Distribution of new building allocations for partially completed project shall be subject to the policies and procedures in place at the time the reallocation is requested.

City of Morgan Hill Ordinance No. 1668, New Series Page 4

The foregoing ordinance was introduced at the regular meeting of the City Council of the City of Morgan Hill held on the 7th Day of April 2004, and was finally adopted at a regular meeting of said Council on the 21st Day of April 2004, and said ordinance was duly passed and adopted in accordance with law by the following vote:

AYES: NOES: ABSTAIN: ABSENT:	COUNCIL MEMBERS: COUNCIL MEMBERS: COUNCIL MEMBERS: COUNCIL MEMBERS:		
ATTEST:		APPROVED:	
Irma Torrez	z, City Clerk	Dennis Kennedy, Mayor	
	∞ <u>CERTIFICATE</u> 0	OF THE CITY CLERK &	
CALIFORN 1668, New Se	IIA, do hereby certify that the fo	RK OF THE CITY OF MC regoing is a true and correct copy of of the City of Morgan Hill, Californ	of Ordinance No.
WIT	NESS MY HAND AND THE S	EAL OF THE CITY OF MORGA	AN HILL.
DATE:			
		IRMA TORREZ, City Cle	rk



CITY COUNCIL STAFF REPORT

MEETING DATE: April 21, 2004

ZONING AMENDMENT, ZAA-01-05: MONTEREY - SOUTH VALLEY DEVELOPERS / GATEWAY CENTER

RECOMMENDED ACTIONS:

- 1. Open/Close Public Hearing
- 2. Waive the reading in full of the Zoning Amendment Ordinance
- 3. Introduce on first reading the Zoning Amendment Ordinance (roll call vote)

EXECUTIVE SUMMARY: The applicant requests an amendment to the approved Gateway Center mixed use office/retail Planned Unit Development (PUD) located on a 6.22-acre site at 18605 Monterey Road at the intersection of Cochrane and Monterey Roads.

Agenda Item # 30
Prepared By:
Contract Planner
Annuariad Dru
Approved By:
CDD Director
Submitted By:
City Manager

The applicant seeks to amend the Gateway Center PUD language to allow the following: 1) To eliminate the fast food restaurant on Parcel 2; 2) To increase the size of the retail building on Parcel 2 to 6,735 square feet to provide a maximum of four (4) tenant spaces and to allow a coffee shop with a drive-thru at the southerly end of the building; 3) To decrease the size of the building on Parcel 3 to approximately 15,000 square feet of leasable space to accommodate a maximum of eight (8) tenant spaces; 4) To eliminate the existing PUD text requirement requiring the developer to "to have the Parcel 3 retail building under construction prior to the Parcel 2 fast food restaurant"; and 5) text addition to allow either office or a single story retail building on Parcel 4. All other standards of the PUD would remain in force in accordance with Ordinance No. 1549 and the *Gateway Center PUD Guidelines and Development Plans*, approved by City Council on May 1, 2002. No architectural changes are proposed with this request.

Although the square footages of the individual parcels and buildings proposed on each parcel within the project will be modified, the overall leasable square footage for Parcels 2 and 3 of the Gateway PUD will remain unchanged at approximately 21,800 square feet. The existing building configuration shows Parcel 2 fast food restaurant at 2,600 square feet and Parcel 3 retail building at 19,200 square feet for a total leasable space of 21,800 square feet. The proposed leasable square footage at this time is 6,792 square feet for the Parcel 2 retail building and 15,000 square feet for the Parcel 3 retail building for a total proposed leasable space of 21,792 square feet. The 7,367 square feet shown on the Site Plan for Building 2 represents the building footprint including the veranda overhang elements and patio areas. The size of the building to be located on Parcel 4 will depend on the mix of uses. This building will be sized to not exceed the number of parking spaces available on Parcel 4.

The Commission voted 6-1 approving the Zoning Amendment at the regular meeting of April 13, 2004. The Commission's staff report is attached for Council's reference; however, the Minutes have not been prepared. Staff also recommends approval of the Gateway PUD Zoning Amendment, as prepared.

FISCAL IMPACT: None. Filing fees were paid to the City to cover processing of this application. Attachments:

- 1. Zoning Amendment Ordinance
- 2. Planning Commission Staff Report (4/13/04)
- 3. Proposed Precise Plan
- 4. Ordinance No. 1549, New Series
- 5. Vicinity Map

ORDINANCE NO. ____, NEW SERIES

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING AN AMENDMENT TO ORDINANCE NO. 1549, NEW SERIES, TO ALLOW AMENDMENT OF THE APPROVED GATEWAY CENTER PLANNED UNIT DEVELOPMENT LOCATED AT 18605 MONTEREY ROAD. (APPLICATION ZAA-01-05: MONTEREY – SOUTH VALLEY DEVELOPERS) (APN 764-10-004).

THE CITY COUNCIL OF THE CITY OF MORGAN HILL DOES HEREBY ORDAIN AS FOLLOWS:

- **SECTION 1.** The proposed Zoning Amendment is consistent with the Zoning Ordinance and the General Plan.
- **SECTION 2.** The Zoning Amendment is required in order to serve the public convenience, necessity and general welfare as provided in Section 18.62.050 of the Municipal Code.
- SECTION 3. An Environmental Initial Study was prepared for the overall 6.22-acre Planned Unit Development. A Mitigated Negative Declaration was filed on May 6, 2002.
- SECTION 4. The City Council finds that the proposed Amendment to the Gateway Center PUD and revised Precise Plan are consistent with the criteria specified in Chapter 18.18 of the Morgan Hill Municipal Code.
- SECTION 5. Approval of the Gateway Center PUD Amendment and revised Precise Development Plan shall allow the following amendments to Ordinance No. 1549 and the Gateway Center PUD Guidelines and Development Plans, approved by the City Council on May 1, 2002:
 - 1) Elimination of the fast food restaurant on Parcel 2;
 - 2) Increase in the size of the retail building on Parcel 2 to 6,735 square feet to provide a maximum of four (4) tenant spaces and to allow a coffee shop with a drive-thru at the southerly end of the building;
 - 3) Decrease in the size of the building on Parcel 3 to approximately 15,000 square feet of leasable space to accommodate a maximum of eight (8) tenant spaces;
 - 4) Elimination of the existing PUD text requirement requiring the developer to "to have the Parcel 3 retail building under construction prior to the Parcel 2 fast food restaurant"; and,
 - 5) A text addition to allow either office or single story retail building on Parcel 4.
- **SECTION 6.** The City Council hereby approves the Gateway Center PUD Amendment and revised Precise Plan, attached as Exhibit "A", and contained in that certain series of documents on file in the Community Development Department,

City of Morgan H	Iill
Ordinance No.	New Series
Page 2	

entitled "Gateway Center Parcels 2 & 3", prepared by MH Engineering Company. These documents, as amended by site and architectural review, show the location and sizes of all lots in this development and the location and dimensions of all proposed buildings, vehicle and pedestrian circulation ways, parking areas, landscape areas and any other purposeful uses on the project.

- SECTION 7. With the exception of the amendments allowed under Section 5 of this Ordinance, buildout of the Gateway Center PUD shall comply with Ordinance No. 1549, new series and the Gateway Center PUD Guidelines and Development Plans, adopted by the City Council on May 1, 2002. Any modifications to the approved building plans shall also comply with the site development standards of the PUD Guidelines and Ordinance No. 1549.
- **SECTION 8.** Severability. If any part of this Ordinance is held to be invalid or inapplicable to any situation by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance or the applicability of this Ordinance to other situations.
- SECTION 9. Effective Date; Publication. This Ordinance shall take effect from and after thirty (30) days after the date of its adoption. The City Clerk is hereby directed to publish this ordinance pursuant to §36933 of the Government Code.

The foregoing ordinance was introduced at the regular meeting of the City Council of the City of Morgan Hill held on the 21st Day of April 2004, and was finally adopted at a regular meeting of said Council on the 5th Day of May 2004, and said ordinance was duly passed and adopted in accordance with law by the following vote:

Irma Torrez	City Clerk	Dennis Kennedy, Mayor	
ATTEST:		APPROVED:	
ABSENT:	COUNCIL MEMBERS:		
ABSTAIN:	COUNCIL MEMBERS:		
NOES:	COUNCIL MEMBERS:		
AYES:	COUNCIL MEMBERS:		

City of Morgan	Hill
Ordinance No.	New Series
Page 3	

EXECUTE OF THE CITY CLERK 08

I, IRMA TORREZ, CITY CLERK OF THE CITY OF MORGAN HILL, CALIFORNIA, do hereby certify that the foregoing is a true and correct copy of Ordinance No., New Series, adopted by the City Council of the City of Morgan Hill, California at their regular meeting held on the 5th Day of May 2004.

WITNESS MY HAND AND THE SEAL OF THE CITY OF MORGAN HILL.

DATE:	
	IRMA TORREZ, City Clerk



CITY COUNCIL STAFF REPORT MEETING DATE: April 21, 2004

AMENDMENT OF MUNICIPAL CODE REGARDING LIMITATIONS ON ADVERTISING OF TOBACCO PRODUCTS

RECOMMENDED ACTIONS:

- 1. Open/close Public Hearing.
- 2. Waive in Full the reading of the Ordinance.
- 3. First Reading of the Ordinance.

EXECUTIVE SUMMARY:

Agenda Item # 31

Prepared By:

Helene Leichter
City Attorney

Submitted By:

J. Edward Tewes City Manager

At the Council meeting of October 1, 2003, Tony Murillo made a presentation regarding tobacco prevention and education. He informed the Council that in January 2002, a survey found that 8 of 18 stores in Morgan Hill sold tobacco products to minors. Delores Alvarado, resident, requested that the Council (1) enforce its current ordinance and limit window advertising to 25% total window space; (2) ban all portable ("A" frame-type) signs; (3) ban self-service tobacco displays; and (4) consider licensing tobacco retailers. On October 22, 2003, Mr. Murillo again appeared before the City Council, and requested that the City "enforce and strengthen" the City's tobacco ordinance.

Staff has analyzed the cost of implementing a licensure program. Given the relatively small number of tobacco retailers, and the fairly time-intensive effort for Finance, City Attorney and Code Enforcement to administer and enforce a program, staff does not believe that the fees generated from such a program would be sufficient to cover staff costs. However, staff does recommend that the following changes be implemented to the City's ordinances to strengthen the tools available to staff to regulate tobacco product advertising.

Window Signs. The City's Municipal Code currently restricts advertising in windows in the CC-R district to 25% of the total display area. (Section 18.76.250.) Temporary signs are exempted from this restriction. (Section 18.76.130(A)(12).) The attached ordinance provides that "Tobacco Advertising Signs" (whether they be temporary or permanent) be counted against any 25% limitation.

<u>Portable Signs</u>. Municipal Code section 18.76.130(A)(12) already prohibits portable signs, with the exception of temporary real estate open-house directional signs in residential zoning districts, and up to four signs per block for businesses which front on certain sections of Monterey Road. Such signs must have a permit to place from the City. The materials provided by Mr. Murillo suggest banning these types of signs entirely. Rather than do so, the Council may wish to simply amend the language restricting portable signs in the Municipal Code to clarify that signs promoting or relating to tobacco products are prohibited.

FISCAL IMPACT: No budget adjustment required.

ORDINANCE NO. , NEW SERIES

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL ADDING SECTION 18.76.020(56.5) (Definitions – Tobacco Advertising Sign) AND AMENDING SECTION 18.76.250 (Commercial and Industrial Zone Signs – Window Signs) OF CHAPTER 18.76 (Sign Code) OF TITLE 18 (Zoning) OF THE MUNICIPAL CODE OF THE CITY OF MORGAN HILL REGARDING REGULATION OF TOBACCO ADVERTISING SIGNS

WHEREAS, state law prohibits the sale or furnishing of cigarettes, tobacco products and smoking paraphernalia to minors, as well as the purchase, receipt, or possession of tobacco products by minors (Penal Code § 308); and

WHEREAS, state law requires that tobacco retailers check the identification of tobacco purchasers who reasonably appear to be under 18 years of age (Business & Professions Code § 22956) and provides procedures for using persons under 18 years of age to conduct onsite compliance checks of tobacco retailers (Business & Professions Code § 22952); and

WHEREAS, state law prohibits the sale or display of cigarettes through a self-service display, but explicitly provides that broader local requirements may be enacted (Business & Professions Code § 22962); and

WHEREAS, despite these and other state and local laws related to tobacco, minors continue to obtain tobacco products at alarming rates. Each year, an estimated 924 million packs of cigarettes are consumed by minors 12 to 17 years of age, yielding the tobacco industry an estimated \$480 million in profits from underage smokers; and

WHEREAS, in a 2001 California youth buying survey, 17.1 of retailers surveyed sold tobacco product to minors;² and

WHEREAS, it is estimated that 7.1% of children in California smoke³ and,

¹ Joseph R. DiFranza, M.D. & John J. Librett, M.P.H., *State and Federal Revenues from Tobacco Consumed by Minors*, 89 Am. J. Pub. Health 1106 (1999).

² Cal. Dep't Health Servs, Tobacco Control Section, *Youth Tobacco Purchase Survey 2001* (forthcoming 2002) (upon release, survey results are expected to be available at http://www.dhs.ca.gov/tobacco/html/pressreleases.htm). Note that the youth sale rate cited above is a statewide average. Youth sales rates for a particular city or county may be significantly higher. Check with your local tobacco prevention project, usually located in the county Health Department, to see if local figures are available.

³ Cal. Dep't of Health Servs., Tobacco Control Section, *Adult & Youth Smoking Prevalence 1994-2000* (2001), *at* http://www.dhs.ca.gov/tobacco/documents/401graph.pdf (last updated Jan. 9, 2001).

City of Morgan Hill Ordinance No. , New Series Page 2

WHEREAS, it is estimated that 19.2% of ninth- to twelfth-grade boys use smokeless tobacco (snuff, plug, dipping tobacco, or chewing tobacco);⁴ and 73% of high school seniors who had ever tried smokeless tobacco did so by the ninth grade;⁵ and,

WHEREAS, it is estimated that 57% of 10th graders and 38% of 8th graders perceive that it would be easy for them to obtain cigarettes from a retail source; ⁶ and,

WHEREAS, a strong predictor of adolescent experimentation with cigarettes is the perception that they are easily available; ⁷ and,

WHEREAS, grocery retailers have reported that cigarettes are the most frequently stolen item;⁸ and,

WHEREAS, one survey reported that over 20% of middle school students and over 15% of high school students state that shoplifting is their primary means of obtaining smokeless tobacco; and,

WHEREAS, over 100 California local governments have passed an ordinance requiring the sale of tobacco products to be vendor-assisted; ¹⁰ and,

WHEREAS, a survey of 268 Live Oak High School students performed on May 9, 2003, found that:

- 16.41% of students identified themselves as current smokers;
- 89.2% believed it was easy for minors under the age of 18 to obtain cigarettes or tobacco products in Morgan Hill; and

⁴ Laura Kann, PhD et al., Results from the National School-Based 1991 Youth Risk Behavior Survey and Progress Toward Achieving Related Health Objectives for the Nation, 108 (Supp. 1) Pub. Health Rep. 47, 51 (1993).

⁵ U.S. Dep't of Health & Hum. Servs. et al., *Preventing Tobacco Use Among Young People: A Report of the Surgeon General* 101 (1994).

⁶ Cal. Dep't of Health Servs., Tobacco Control Section, *Independent Evaluation of the California Tobacco Control Prevention & Education Program: Wave 2 Data, 1998, Wave 1 & Wave 2 Data Comparisons 1996-1998* 76 (2001), *available at* http://www.dhs.ca.gov/tobacco/documents/Wave2lEreport.pdf (last updated Apr. 24, 2001).

⁷ Leslie A. Robinson et al., *Predictors of Risk for Different States of Adolescent Smoking in a Biracial Sample*, 65 J. of Consultative Clinical Psychol. 653, 657 (1997).

⁸ Rod Little, *Hottest Picks in Grocery Stores*, USA Today, Dec. 13, 1990, (USA Snapshots), *available at* http://pgasb.pgarchiver.com/USAToday/ (last visited May 29, 2001).

⁹ Fla. Dept. of Health, *Florida Youth Tobacco Survey (1999), Highlights from Pilot Program Areas—at the end of year 1*, (June 10, 1999), *available at* http://www.doh.state.fl.us/disease_ctrl/epi/FYTS/vol2rep_2.pdf (last visited Feb. 28, 2002).

¹⁰ American Nonsmokers' Rights Foundation, *California Ordinances Restricting Youth Access to Tobacco*, (Dec. 13, 2001), *available at* http://birch.he.net/~talc/PDFs/licordlst.pdf (last visited Feb. 1, 2002).

City of Morgan Hill Ordinance No. , New Series Page 3

• 82.8% knew minors who obtained tobacco products within the thirty (30) days prior to the survey

WHEREAS, the City Council of the City of Morgan Hill finds that restriction of advertising of tobacco products will assist in reducing the access by minors to tobacco products and other above-stated concerns.

NOW THEREFORE, IN CONSIDERATION OF THE FOREGOING, THE CITY COUNCIL OF THE CITY OF MORGAN HILL DOES HEREBY ORDAIN AND ENACT AS FOLLOWS:

Section 1. Subsection 56.5 (Tobacco Advertising Sign) of Section 18.76.020 (Definitions) of Chapter 18.76 (Sign Code) of Title 18 (Zoning) is hereby added to read as follows:

18.76.020 Definitions.

... 56.5 "Tobacco Advertising Sign" means any of the following: a temporary or permanent sign (including, without limitation, the application of words and graphics to any medium) that is installed or painted on any medium or object for the purposes of advertising tobacco products, including but not limited to any substance containing tobacco leaf, such as cigarettes, cigars, pipe tobacco, snuff, chewing tobacco, dipping tobacco, or bidis.

Subsection L (Window Signs) of Section 18.76.250 (Commercial and Industrial Zone Signs) of Chapter 18.76 (Sign Provisions) of Title 18 (Zoning) is hereby amended to read as follows:

18.76.250 Commercial and industrial zone signs.

- L. Window signs. All permanent window signs *and tobacco advertising signs together* may not occupy more than twenty-five percent of the window area on which they are placed. Permanent window signs within a shopping center or building housing more than three businesses must be included in an approved uniform sign program. Window sign area shall be included in the total building aggregate sign area, as per subsection D or subsection G1 of this section.
- <u>Section 3.</u> Severability. Should any provision of this ordinance be deemed unconstitutional or unenforceable by a court of competent jurisdiction, such provision shall be severed from the ordinance, and such severance shall not affect the remainder of the ordinance.
- **Section 4. Effective Date; Posting**. This ordinance shall take effect thirty (30) days after its second reading. This ordinance shall be posted at City Hall.

City of Morgan Hill Ordinance No. , New Series Page 4

The foregoing ordinance was introduced at the regular meeting of the City Council of the City of Morgan Hill held on the 21st Day of April 2004, and was finally adopted at a regular meeting of said Council on the 5th Day of May 2004, and said ordinance was duly passed and adopted in accordance with law by the following vote:

AYES: NOES: ABSTAIN: ABSENT:	COUNCIL MEMBERS: COUNCIL MEMBERS: COUNCIL MEMBERS: COUNCIL MEMBERS:		
ATTEST:		APPROVED:	
	z, City Clerk	Dennis Kennedy, Mayor	
	∞ <u>CERTIFICATE O</u>	F THE CITY CLERK 08	
CALIFORN New Series,	IIA, do hereby certify that the fore	RK OF THE CITY OF MORGAN egoing is a true and correct copy of Ordina the City of Morgan Hill, California at the	ance No.
WIT	NESS MY HAND AND THE SI	EAL OF THE CITY OF MORGAN HI	LL.
DATE:			
		IRMA TORREZ, City Clerk	



CITY COUNCIL STAFF REPORT MEETING DATE: April 21, 2004

Coyote Valley Specific Plan – Morgan Hill Participation

RECOMMENDED ACTION(S): Council Discretion

FYF	CHTI	VF	CHMI	MARY	
	w	V P	OUNT	VIARY	-

On March 30th, City of San Jose staff met with representatives of the Morgan Hill Planning Commission and the full City Council to discuss the Coyote

Agenda Item # 32

Prepared By:

Community
Development Director

Submitted By:

City Manager

Valley Specific Plan. The purpose of the meeting was to allow San Jose staff to explain the Specific Plan process for Coyote Valley and to receive comments from Morgan Hill regarding future development of that area. A summary of that meeting, prepared by San Jose staff, is attached for Council review. One of the major concerns expressed by Morgan Hill representatives was the need for improved communications between the two jurisdictions in the preparation of the Specific Plan. It was specifically recommended that a Morgan Hill representative be appointed to the Policy Task Force which is guiding this project. Attached is a letter from Mayor Kennedy to Mayor Gonzalez requesting such an appointment. The letter requests a response from Mayor Gonzalez prior to the Council's April 21^{st} meeting.

This item has been placed on the agenda at the request of Council member Tate to give the Council the opportunity to discuss all City options regarding participation in this important project.

FISCAL IMPACT:

No budget adjustment required.

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Attachments: Meeting Summary

Letter to Mayor Gonzalez



CITY COUNCIL STAFF REPORT MEETING DATE: April 21, 2004

AMENDMENT TO AGREEMENT FOR LAND USE PLANNING CONSULTING SERVICES

RECOMMENDED ACTION:

Approve amendment to contract with Kenneth R. Schreiber adding \$14,410 for land use consulting services in conjunction with the Urban Limit Line Study.

Agenda Item # 33
Prepared By:
Community
Development Director
Submitted By:
City Manager

EXECUTIVE SUMMARY:

On April 7, 2004, the City Council approved modification of the Scope of Work for the Urban Limit Line (Greenbelt) Study to incorporate an Implementation Program. Modifications to the City's contract with Moore Iacofono Goltsman (MIG) included reducing MIG's compensation and shifting some work tasks to City staff responsibility. Mr. Schreiber is undertaking a portion of the City staff work through a contract that uses funding from an unfilled Senior Planner position. Shifting \$14,410 from the MIG contract to Mr. Schreiber will facilitate the increased level of staff work in the next months as anticipated in the Urban Limit Line Implementation Program Scope of Work.

FISCAL IMPACT:

All of the funding in the contract amendment has been appropriated by the City Council for the Urban Limit Line Study. No additional appropriation is necessary.

CITY COUNCIL/REDEVELOPMENT AGENCY SUMMER MEETING SCHEDULE

RECOMMENDED ACTION: Discussion and Direction Regarding Summer Meeting Schedule

Agenda Item # 34

Prepared/Approved By:

Council Services & Records Manager/ Agency Secretary

Submitted By:

City Manager/ Executive Director

EXECUTIVE SUMMARY:

Traditionally, the City Council/Agency Board cancels one or two of its meeting during the months of July and/or August. Staff would like to take this opportunity to discuss with the Council and Agency Board its recommendation for meetings to be held during the summer months. Should the Council and Agency Board decide to cancel a meeting(s) during the summer month(s), staff will update all listings to ensure that the public is made aware of the change in meeting schedule. Staff will schedule items before the City Council and Agency Board accordingly. If issues arise that require City Council and/or Agency Board action, staff will apprise you and a meeting can be scheduled. Staff has attached City Council/Redevelopment Agency meeting schedule for the months of June, July, and August 2004 for Council/Agency Board reference.

FISCAL IMPACT: Preparation of this staff report is accommodated in the Council Services & Records Manager's operating budget.